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**INDIAN EDUCATION:**  
**The Right to be Indian**

**THE THIRD  
ANNUAL REPORT  
TO THE CONGRESS  
OF THE  
UNITED STATES**

**WASHINGTON, D.C.  
MARCH 1976**

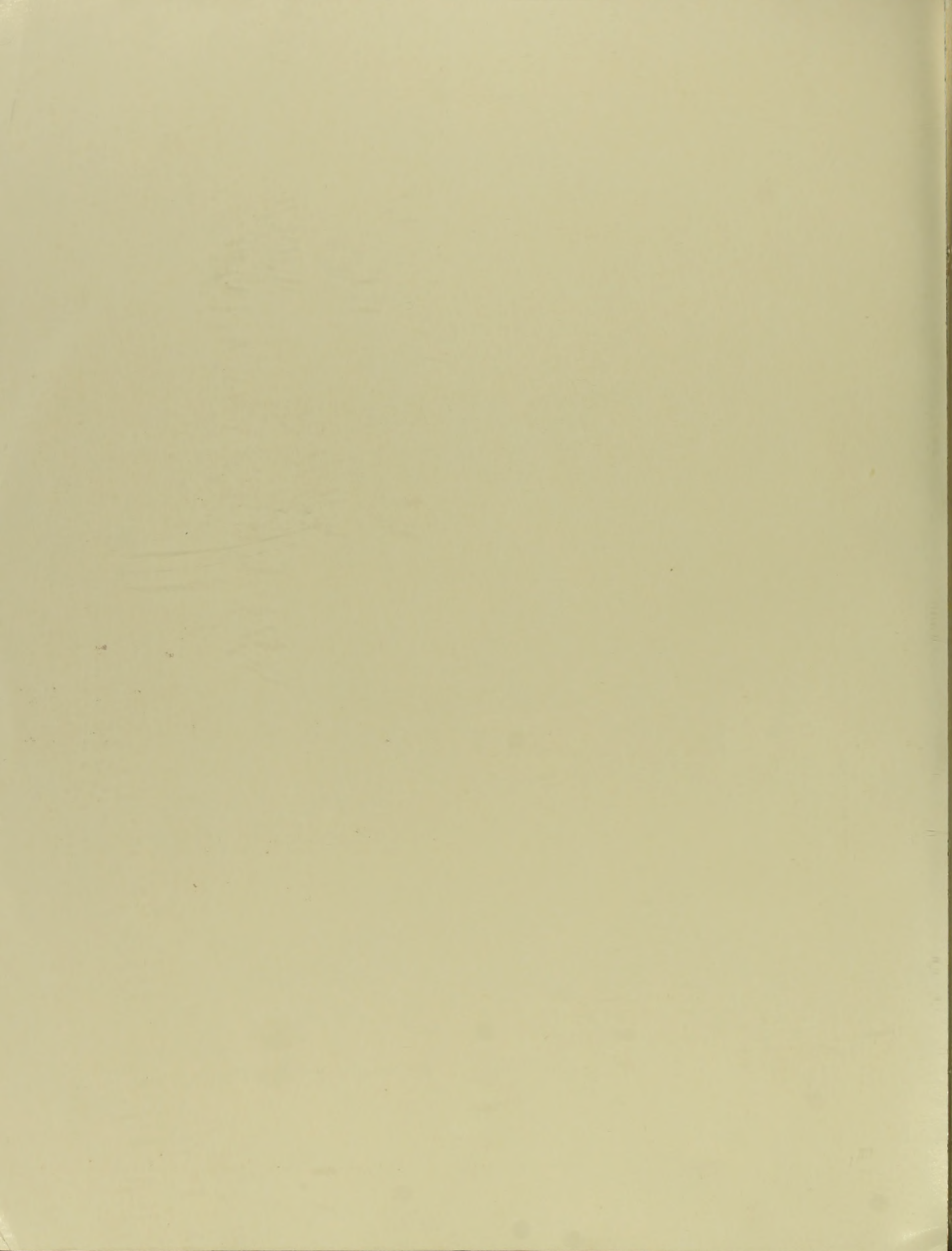
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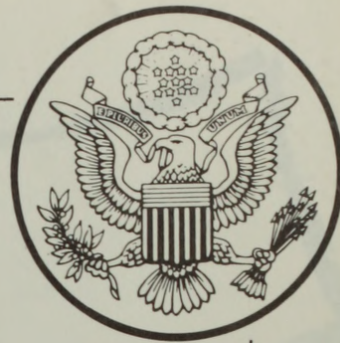
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**National Advisory Council on Indian Education**





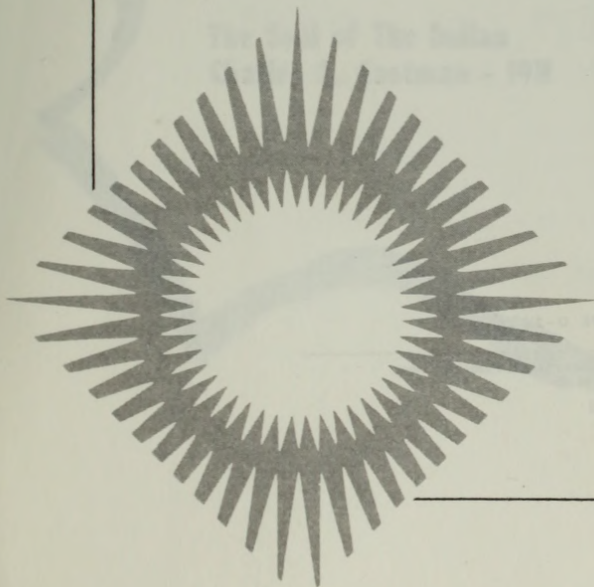


# INDIAN EDUCATION The Right To Be Indian

## **THE THIRD ANNUAL REPORT TO THE CONGRESS OF THE UNITED STATES**

**WASHINGTON, D.C.**

**MARCH 1976**



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# **INDIAN EDUCATION**

## **The Right To Be Indian**

**“Such are the beliefs in which I was reared --  
the secret ideals which have nourished in  
the American Indian a unique character among  
the peoples of the earth.  
Its simplicity, its reverence,  
its bravery and uprightness  
must be left to make their own appeal  
to the American of today,  
who is the inheritor of our homes,  
our names and our traditions.  
Since there is nothing left us but remembrance,  
at least let that remembrance be just !!”**

**The Soul of The Indian  
Charles A. Eastman - 1911**



Members of the National Advisory Council on Indian Education  
appointed by the President of the United States in accordance  
with an Act of Congress entitled, Title IV of the Indian  
Education Act of 1972.

---

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425 13th STREET, N.W.

WASHINGTON, D.C. 20004

## COUNCIL MEMBERS:

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Ramah, New Mexico — Lumbee

## STAFF:

LINCOLN C. WHITE  
Executive Director

DORRANCE D. STEELE  
Asst. Executive Director

## To The Congress of The United States

The National Advisory Council on Indian Education members were appointed in May, 1973, by the President of the United States for a three year term which expires in May 1976. They have achieved much and received praises and respect from those who have spent time observing them or working with them. The trust and demands on this advocate group are great and at times the boundaries are almost indefinable. To serve approximately 570 native groups, each with unique cultural and educational needs poses a difficult and challenging task.

Acknowledgements for an outstanding performance is extended to the NACIE staff. Their dedicated efforts to carry out the Council's goal to improve the quality of education and life for Native Americans is now history. Their accomplishment and experience will contribute much to advance the cause of Indian education.

From my perspectives there are several matters of note and issue that need to be addressed:

1. The impact of federal funding for Indian education needs to be thoroughly researched and evaluated by all participating parties—native peoples and related agencies. Research projects such as the one conducted by ACKCO Inc. (Indian owned and operated) entitled, "So That All Indian Children Will Have Equal Education Opportunity", funded by the U.S.O.E. and the B.I.A. are effective. This study discounted the premise that unnecessary duplication exists among various federal education programs.

Congress must be cognizant of this document - of its real and potential implications.

2. Changes in methods of the delivery of services to Indian people must be carefully evaluated by the national Indian leadership. Administration mechanisms must be designed by Indians themselves to be consistent with their tribal goals and objectives which are definitely set to provide self-determination.



3. National Indian leaders must design and establish processes to insure that there is adequate Indian review and input into the legislative budgetary and appropriation mechanisms.
4. The NACIE was instrumental in creating and convening an "Ad Hoc" National Indian Education Committee. This forum generated key thrusts on behalf of Indian education. Especially addressed was the result for mutual support for adequate funding levels for various programs.

Maximizing the involvement of national Indian education leaders must continue in an organized and systematic fashion.

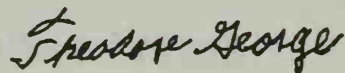
5. NACIE's mandate under P.L. 92-318 needs review. Many have felt that the appointees represent a region, area or constituency. They must be the national voice for native people and serve as advocates for Indian education in the broadest sense in order to make an effective impact on national Indian policy.

The review must consider whether a policy making body and full-time salaried membership are desirable.

Congress in its concern for the Indian constituency as reflected in legislation such as Title IV, The Indian Policy Review Commission, the Indian Self-Determination and Education Assistance Act, the Indian Finance Act, the Office of Native American Programs, Amendments to the Older American Act to Benefit Elderly Native Americans, etc., has lifted the spirits of the Indian people and provided a basis for all Indian citizens in this country.

Much has been done but it is only a beginning, a beginning in which the Indian is recognized for what he is and not for what he should be.

Sincerely,

A handwritten signature in cursive script that reads "Theodore George".

Theodore George  
Chairman

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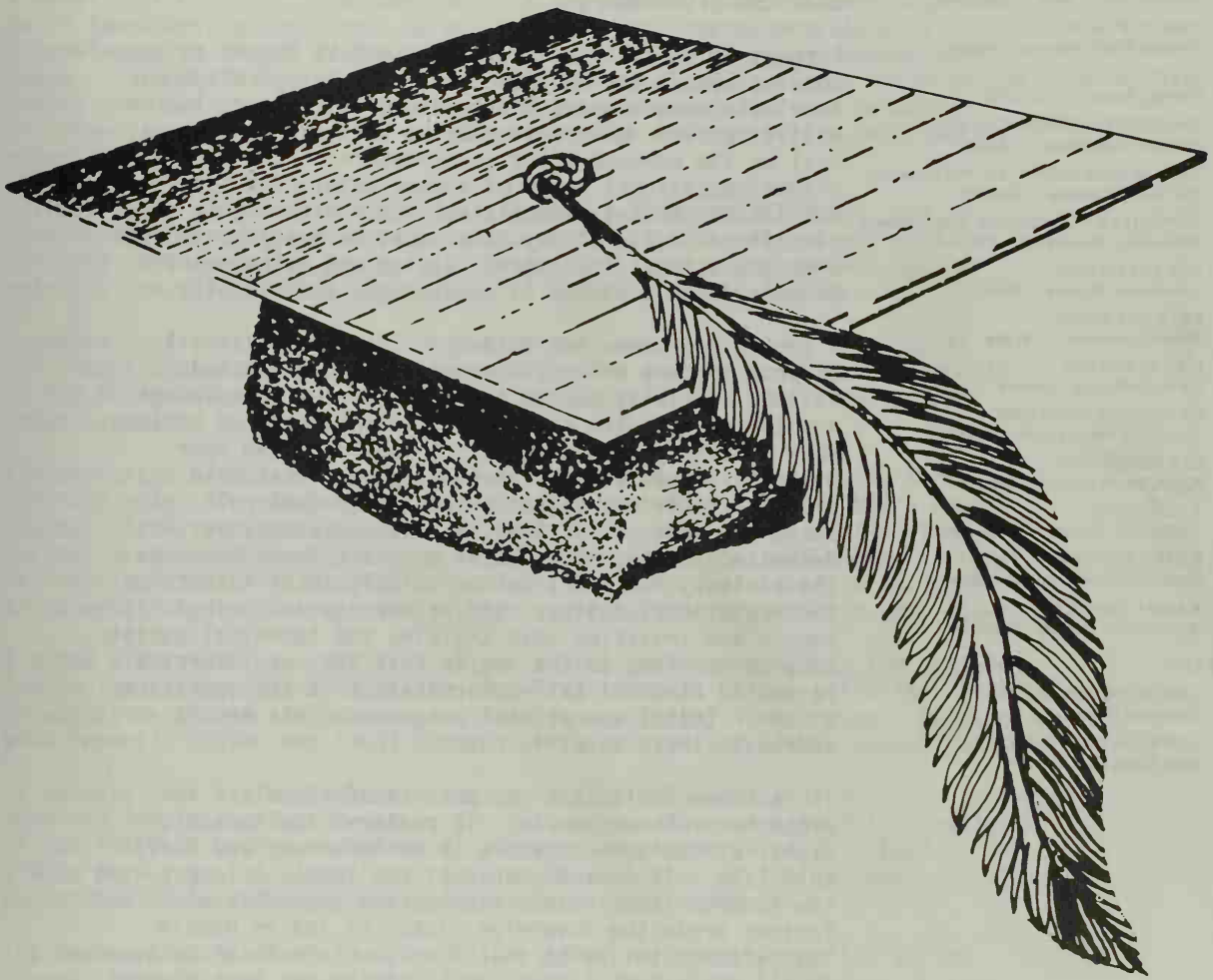
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130	assisting the Commissioner of Education in further defining the term "Indian" for its proper use in the federal regulations to be the authoritative language essential to properly administering this Act. The task has been difficult and one that the Council continues to deliberate over in a most careful manner. Suggested changes in the definition and the status of the Council's findings to-date are requested here, respectfully, to be considered.
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# NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PENNSYLVANIA BUILDING, SUITE 326

425 13th STREET, N.W.

WASHINGTON, D.C. 20004

March 1976

## COUNCIL MEMBERS:

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KARMA TORKLEP  
Ramah, New Mexico — Lumbee

## STAFF:

LINCOLN C. WHITE  
Executive Director

DORRANCE D. STEELE  
Asst. Executive Director

Dear Council Members:

Perhaps we should view this Third Annual Report as the opening agenda for our Council to firmly establish our true role as advocates for American Indian and Alaskan Native people. Congress needs to fully sense that we must be the conveyors and interpreters of the special, unique educational needs of approximately 570 Indian and Alaskan tribal communities. Each with highly significant cultural ways that must be fully considered when educational strategies, styles and methods are developed and employed to provide the best in life.

I admire your devotion to duty. I realize that all of your sincere efforts are not fully appreciated. This is partially due to the magnitude of your charge and to the definite lack of sufficient funds to perform your statutory role that is both advisory and operational. It is evident that the powers that make critical decisions do not respect this dual role. A reasonable request of \$692,548 was presented, yet was decreased to \$230,000. Maybe adequate funds to serve the advisory function, but definitely insufficient for the operational duties. Indian parents and tribal people are insisting that training and technical assistance be provided to the degree that they can exercise respected kinds of self-determination in the operation of their tribal educational programs. This report addresses these specific needs.

It is commendable that you have stood steadfast as protectors of our people. To preserve the sovereign rights of indigenous people is an important and difficult task. It demands constant vigilance to insure that the federal laws, rules, regulations and policies do not further erode the sovereign rights of Indian people. Your efforts to insist that "Indian Preference" be observed in all employment situations involving the destinies of Indian people must be communicated directly to Congress and to others in authority.

Congress needs to be aware that our Council serves all indigenous people in our Land. That there is full consideration for all Indian people -- for the federally recognized tribes as well as for those other indigenous



Council Members  
March 1976

tribes that have never been in a legal, political position to establish sovereign relations with the U.S. That responsibility of determining who is a member of a specific, indigenous tribe or community falls within the purview of this body's official duties as a sovereign, autonomous entity.

Perhaps it is redundant to state this, but it is obvious to our Council that a beneficent Congress, President and all the related official appendages can be of immeasurable assistance to our people. This characteristic will be acknowledged as levels of funding and implementation practices become adequate. It appears that this process will be expedited in direct ratio to the degree that our special, unique tribal needs are recognized and respected. Our Council can also serve to educate non-Indian Americans if enough energy/money is provided.

I truly sense our Councils' difficulties as we serve to interpret and to communicate the Indian parents' strong insistence that they do not want to abrogate their parental educational responsibilities. They do not want to relegate the education of their children entirely to non-Indians.

I admire your insistence that our native languages be allowed to flourish in our educational programs. This means to regard them as essential components of the native student's learning environment and at the same time to lend proper credence to English as a second language.

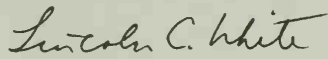
I have stated to you before that my position as your director is to serve our advocacy role. To enhance the strength of this support role at every opportunity. To be constantly sensitive to designs, plans and activities that will further erode or chip away at our tribal sovereign rights. A myriad of conditions stand ready to impinge on these rights. My objections to any semblance of paternalism, even though benign, are strong and in accord with your views.

I stand with you as you insist that our tribal governance bodies and national Indian leadership organizations be given full respect in all activities related to education and to the other essentials of our tribal life styles. Relations with federal, state, and local agencies must be open and highly communicative.

I, repeat, that it is absolutely essential that all parties directly or indirectly involved in setting the direction for Indian education must be fully cognizant of the inherent rights and needs of our indigenous people of this land. The wisdom of our tribal elders must be blended with that of the dominant society's educational mode and must be significantly acknowledged.

The Indian Council fires that symbolize tribal purposes, integrity and an avowed right to seek the highest quality of life are still burning. I view our service as either members or staff of the National Advisory Council on Indian Education as one of detached service from our own specific tribal entities.

Sincerely,

  
Lincoln C. White (Mohawk)  
Executive Director

...the purpose of this bill is to establish a national system of education...

...it is proposed to create a national system of education...

...I truly trust that the Committee will find it necessary to...

...I believe your committee will find it necessary to...

...I have stated to you that the purpose of this bill is to...

...I stand with you in the belief that the purpose of this bill is to...

...I repeat, that the purpose of this bill is to...

...The Committee on Education and Labor...

...The Committee on Education and Labor...

## **A BICENTENNIAL MESSAGE . . .**

**“The Lessons of the Past -  
Can Provide the Basis for our  
Survival in the Future”**

**Is it possible  
that the lessons of American Indians' 200 years  
experience under an authoritarian paternal  
relationship with the Federal Government -  
which clearly demonstrated that paternalism  
is alien to liberty and freedom -  
are the realities of things to come for all  
Americans, in the increasing dictation of our  
lives by the federal and state bureaucracies?**



Indian Education is a process by which the Indian solves his daily problems by his own methods and techniques. Indian education is highly relevant to daily existence. Every act was related to an event affecting the life of the individual and those in the family and tribe. Education was a responsibility of the family and the Indian community--it was not a separate, fragmented, artificial or sterile process.

The American Indian has been able to adapt and coexist or he would have been eliminated years ago. This survival alone is proof of the commitment the Indian has to his way of life and its importance to his continued existence. There is no doubt that American society must have a common system of education to be a stable, progressive nation. However, there are many factors that contribute to the success of the total education system. Indian Education and its effectiveness could add a new dimension to an American system that needs new and more relevant ideas.

Another inevitable question is--Who is qualified to teach Indian Education? An Indian, a spiritual leader or a professional educator? Actually anyone who takes the time to study and learn the teachings of Indian people can teach Indian values and concepts. It is not so much the details but rather the concepts that are important. For example, an Indian medicine man must learn the legends, the chants, and the prayers in order to perform certain ceremonies but with all his learnings he may be prevented by customs, beliefs or even inability to teach his knowledge to a child unless such a child is his protege. However, a teacher who utilizes such Indian knowledge would do a far more effective job of sharing such knowledge with his students because he does not have such restrictions. Does Indian education cost more than conventional education? No more than any other courses now available in elementary and secondary schools. But in order for Indian education to be more comprehensive, it should be included in teachers' training programs as well as to be included in the regular curriculum. While the cost of providing Indian education is nominal, the returns in terms of a child's motivation,

self-image and understanding can be tremendous.

*The Indian's desire for Self-Determination in having a voice in their own destiny is an essential part of American Democracy, which is the right to exercise one's freedom and to respect the dignity of an individual. As a rule, a learning process that enhances one's appreciation for liberty is a gain for the nation as a whole. It is not a divisive tendency, but rather the yearning to fully exercise one's freedom and one's potential. In the pursuit of these opportunities, the ingenuity and the creativity that is the heart of American character is facilitated.*

The National Advisory Council on Indian Education, in this Bicentennial year, wishes to present in this report, why and how Indian education can play a key role in fostering the ideals and the dreams of the American Democracy and the liberties guaranteed by our constitution, and even more importantly, by the dedication and commitment of our people.

\*\*\*\*\*

## INTRODUCTION

The American people, through their government, have responded to the educational needs of the Indian people in many ways with varying degrees of success as well as failures over a period of two hundred years and beyond.

The Bureau of Indian Affairs, established in 1851, was created to play the role of trustee for the Indian people and as a trustee, has the responsibility of preparing the Indian people to enter the mainstream of American society.

However, some 75 years later in 1924, the Merriam Report revealed almost a total failure of this government effort to divest the Indian of his cultural heritage and to assimilate him into the larger society.

As a result, educational programs which recognize the value of Indian cultural heritage became part of the federal education policies for the Indian people. Nevertheless, Indian involvement in the development of these policies and programs were still far in the future.

Also, since the 1930's the state educational school agencies became involved with Indian education on a compensatory basis under federal legislation called the Johnson O'Malley. But still Indian people were not given an opportunity in either the operation or the direction of their own education. It was not until the 1960's that Indian people had their educational needs brought fully to national attention.

In 1968, the Congress created a Subcommittee on Indian Education which held hearings throughout the country during 1968 and 1969. The hearings resulted in major federal legislation, the Indian Educational Act of 1972, which afforded the Indian people a first real opportunity to

participate in the policies and programs that affect their educational needs.

The National Advisory Council, appointed in 1973 by the President, in accordance with the Congressional mandate, assumed the role of advocating the needs of the Indian people through its congressionally delegated responsibilities, and its activities are presented in this annual report as well as in its previous two annual reports.

Through the efforts of many Indian Tribes, individuals, and organizations, including this Council, the life of the Indian Education Act of 1972 was extended to 1978 and through similar efforts the National Advisory Council will also remain as an entity for another three years. A new membership to the Council is expected to be appointed this year in order to provide for continued and consistent advocacy on behalf of Indian children, Indian adults and Indian communities at the highest level of our national government.

With the efforts of many, the trials and errors of many years, the experience and demonstrations of many programs, and with the new spirit of Indian revival in the form of self-determination and new awareness, the task of bringing about a new standard of quality and innovative approaches to Indian education is now a realistic goal. Most importantly, with a new awareness and a new understanding, Indian education is on a threshold of real achievement and meaningful fulfillment for the American Indians. It is in this spirit of optimism and hope, that the Council presents its third annual report, pointing out the successes, the problems, the needs and the opportunities, as a challenge to all those who are charged with seeking quality education for the First Americans.

\*\*\*\*\*



The National Advisory Council on Indian Education performs the following functions as mandated by Congress in the Indian Education Act of 1972, Title IV of P.L. 92-318.

- (1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit.
- (2) review applications for assistance and make recommendations to the Commissioner with respect to their approval;
- (3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;
- (4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;
- (5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 308 (b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and
- (6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit,

With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

The National Advisory Council on Indian Education has read 1,710 proposals for Title IV and made recommendations to the Commissioner of Education. This has been one of the most important and rigorous programs for the Council and has been very instrumental in supporting the spirit and letter of the law for benefit of Indian Education.

The following chart indicates the number of Title IV program applications received by the Office of Education and reviewed by NACIE during 1975. The total dollar amount requested, the number of grants funded, and the amount of funds available from Title IV are also indicated on the chart.

PART B

	<u>APPLICANTS</u>	<u>AMOUNT REQUESTED</u>	<u>NUMBER OF GRANTS</u>	<u>AMOUNT AVAILABLE</u>
1975	429	55 million	165	12 million

PART C

1975	167	17 million	52	3 million
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PART A

1975	1203		845	22.5 million
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PART A SET ASIDE

1975	33	5.1 million	26	2.5 million
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The National Advisory Council on Indian Education, in its effort to respond to the needs of all Indian people, held full Council meetings in the following different regions of the country during the calendar year 1975:

Washington, D.C. (Closed Meeting - Proposal Readings)	March 1-9, 1975
Denver, Colorado (Closed Meeting June 1, 1975 - Personnel Action for the position of the Executive Director)	May 30 - June 1, 1975
Bismarck, North Dakota	June 26-29, 1975
Rochester, New York	August 1-3, 1975
Seattle, Washington	October 16-19, 1975

NACIE Committee Meetings held during 1975 as follows:

Research & Publications	Phoenix, Arizona	January 3, 1975
Rules & Regulations	Phoenix, Arizona	January 4-5, 1975
Legislative Committee	Denver, Colorado	January 17-18, 1975
Ad Hoc Committee (Closed Meeting - Reviewing applicants for Executive Director)	Washington, D.C.	April 19, 1975
All Committees	Bismarck, North Dakota	June 26, 1975
Executive Committee	San Francisco, California	July 26-27, 1975
All Committees	Seattle, Washington	October 16, 1975
Executive Committee	Denver, Colorado	December 13, 1975

Footnote: For a complete list of all full Council meetings held to date, see Appendix.



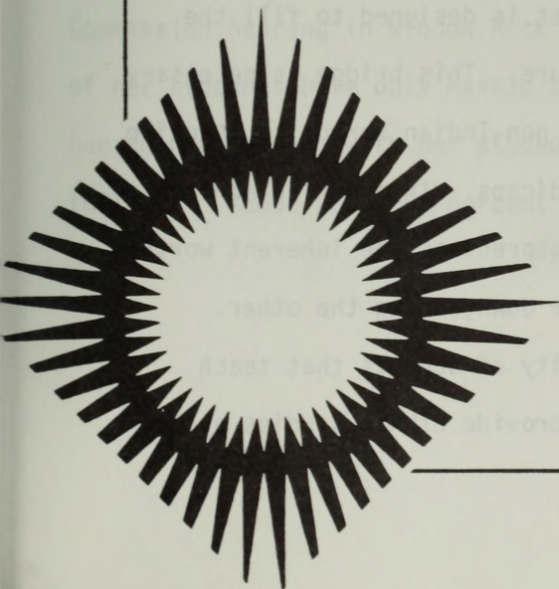
The National Assembly Council, a White House staff organization, responded to the request for information regarding the following activities during the period of the Council's existence:

Washington, D.C.	March 1-2, 1975
(Closed Meeting - Progress Report)	
Denver, Colorado	May 10-11, 1975
(Closed Meeting - Joint Session of the Executive Committee)	
Washington, D.C.	June 10-11, 1975
Washington, D.C.	August 1-2, 1975
Seattle, Washington	October 10-11, 1975
Research & Publications	January 1, 1975
Rules & Regulations	January 2-3, 1975
Legislative Committee	January 4-5, 1975
Ad Hoc Committee	April 18, 1975
(Closed Meeting - Following Appointment for Executive Director)	
Executive Committee	July 20-21, 1975
Executive Committee	October 10, 1975
Executive Committee	December 13, 1975

Footnote: For a complete list of all Council meetings held in date, see Appendix.

# PART I

## THE LESSONS OF TITLE IV - NEEDS AND ACHIEVEMENTS



## RECOMMENDATION # 1

*The U.S. Office of Education through its Office of Indian Education must more fully understand the necessity and meaning of Indian Education. This understanding must be more fully reflected in the kinds and quality of Title IV programs that are funded. The constant drift toward more red tape and restrictions must be reversed in order to give Indians greater opportunities and control over their own Affairs in the true spirit of Self Determination.*

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### WHAT IS INDIAN EDUCATION?

Indian Education is a process by which an Indian child is afforded the opportunities to overcome the obstacles to his learning achievement. The heart of this process is twofold; emotional and physical aspects of the child. Any child, if he or she is to learn, must have a positive outlook of himself and of his surroundings. Because an Indian child comes from a different ethnic background, all too often the child is alienated by the conventional educational system and if he begins to develop doubts and uncertainties about his learning abilities, that child has seriously impaired his ability to learn and grow. The child must first be made to feel accepted and wanted before he can begin to deal with his environment.

Indian education is an educational process that is designed to fill the gap between Indian culture and the non-Indian culture. This bridge is necessary if one is to make a successful transition into the non-Indian world, to function and to adapt without any emotional or physical handicaps. In order to achieve this, the two cultural systems must recognize and appreciate the inherent worth of the two cultural entities, not one dominating or downgrading the other. This accomodation is not taking place in the majority of schools that teach Indian children because the schools either do not provide ethnic studies or the

teachers are not trained to deal with a multi-cultural situation. In many instances, teachers who recognized this situation are prevented from reaching the children by state and federal policies that prevents the use of the child's cultural background in the classroom. Dr. Carl A. Hammerschlag pointed this out in a hearing before the U.S. Civil Rights Commission in Phoenix, Arizona on November 17, 18, 1972 when he said that, "Public school curricula ought to be supplemented with course materials on Indian history, custom and the teaching of a tribal language." He also said those who teach Indian children must realize that "the difficulty in the education of Indian children lies as much with a society which has degraded and disenfranchised the Indian people . . . ." Dr. Hammerschlag further pointed out that the Indian child and the Indian community must assume greater responsibility. "It is the people who can and must assume the power in determining their futures rather than abandon themselves into the hands of others".

The failure of the conventional education to reach the Indian children in a positive way as to generate learning interest is not a fantasy, it is real. The proof lies in the inescapable fact that most of the Indian children are underachievers in our educational system, be they government or public schools.

Miss Marie Reyner, a public school teacher in Chinle, Arizona on the Navajo Reservation pointed this out in a testimony before a U.S. Civil Rights Commission hearing in Window Rock on October 22, 1973. Miss Reyner said most of her students have only Navajo background, yet the public schools won't allow her to communicate with her students in their native language. Her testimony follows: "About 98 or 99 percent speak and understand only Navajo, and I use



some Navajo words to communicate with them, in order to motivate them to learn number and word concepts. One day I was called to the principal's office and was told this was wrong, that I was violating an Arizona law." Miss Reyner went on to ask, "How else can I teach this class because this is the only language they know?"

Today we hear a lot of rhetoric that Indians should assume a greater role in managing their own affairs. In 1970, President Nixon proclaimed a policy of Self-Determination for the first Americans. In 1974, the Congress passed the Indian Self-Determination and Educational Assistance Act, to specifically address this issue.

Yet out in the Indian communities the effort to translate these words into deeds proves to be a very difficult task, if not impossible. To illustrate this point, the Rock Point Community School's experience in contracting for their own school from the Bureau of Indian Affairs is a good example.

In May 1971, the Rock Point School Board decided to explore the option of going contract school. The School Board members met in Washington with BIA officials and got a commitment from the Commissioner that there will be a negotiation for contract. The negotiation never took place.

The Board then proceeded to arrange for a negotiation with the BIA Area Office in Window Rock. The BIA Area Office told the Board that they would have a letter of intent by January 1, 1972, a proposed plan of operation by March 1; yet the funds for these were not released by the Area Office until after the due dates, making it impossible to meet the time schedule.

Negotiation for the intent to contract was to take place in April, 1972 between the School Board on the one hand and the BIA Area and Central Offices on the other hand. However, when April came around, the BIA Area Office abruptly

announced that there will be no negotiation. The excuse given by the Area Office was that the plan of operation failed to meet the area requirements. These requirements were that the school must incorporate under State law and get authorization from the tribal council. The Board complied with the two requirements but then the Area Office told them that they must also have a written support from the Navajo Division of Education and the Navajo Tribal Council. The Board then went to Window Rock and obtained a written support from the Navajo Division of Education but the Tribal Council had recessed until summer. In late May 1972, the Board finally got approval from the Navajo Tribal Council.

Having complied with all the conditions, the Board approached the Area Office again and after initial reluctance, the negotiation finally got underway.

On August 4, 1972, 58% of the community voted to support the contract school. At this point, fourteen months have passed since the beginning of the contract effort but other obstacles lie ahead for the community. On August 14, with nine days before the opening of the school, the contract was signed and with a sigh.

In March of the following year, the Board again began another round of negotiations for the second year. The BIA Area Office took the position that all BIA positions within the school programs should be eliminated. The School Board preferred the attrition route in order to make the transition as smooth as possible. The Bureau said this cannot be done because of BIA personnel regulations and the U.S. Civil Service regulations.

The BIA Area Office said since the BIA Memorandum 44, issued in 1964 which is used as the basis for contracting, was not published in the Federal Register, it was binding on the Area Office. The School Board hired an attorney and on May 24, 1972, the Deputy Assistant Secretary of the Interior ruled that the pro-

vision in question was binding on the Area Office. Thus, negotiations proceeded again in May, 1973.

This time the BIA Area Office said the School Board cannot direct BIA employees who work under the contract, citing the Civil Service, the Federal Procurement Act and federal personnel regulations. The Board appealed this all the way to the Special Assistant Secretary level without much success. However, on July 31, Acting Associate Solicitor, Indian Affairs, under the Department of the Interior, in an opinion said the Board could direct Bureau employees if the Board is part of the tribal entity (conflicting with the requirement that the Board be incorporated under State law) and has been duly authorized to act on behalf of the tribe. In the absence of such specific authorization from the Council, the Board and the BIA Area Office entered a Memorandum of Understanding that the school will continue to be open for a period of 120 days until the Board obtained specific authorization from the Council. Thus the school was opened without any contract, without any funds and only with a Memorandum of Understanding.

It must be pointed out that this kind of bureaucratic boggle is not limited to the BIA, that it exists in most federal agencies who have grown to protect their own interests against Congressional intent and more importantly, against the interest of the people they were meant to benefit and at a great cost to the taxpayers.

Thus the only real solution is to provide some block grants to the Indian communities without bureaucratic red tape, if the people who need the programs are to be helped at all.

Politically, Indian education is necessary because the Indian people have been the pawns of political interests who prevent the development and growth of tribal government and institutions.

The state of affairs is simply this: The states are reluctant to assume greater educational burden of Indian children for fear the federal government will abandon their own responsibility in this area. The states are also not assuming a greater role because of lack of tax base on Indian reservations as well as limited jurisdiction.

The federal government is not fulfilling its responsibility to the educational needs of the Indian people because of its own bureaucracy and the resulting refusal to delegate some of these responsibilities to the Indian people.

The net result is these factors all add up to a dismal failure of both state and federal governments to deal with the educational needs of the Indian communities, as the record shows:

Dropout rate among Indian youth is the highest in the country.

Delinquency among Indian youth is the worst among all other youth groups.

Suicide rate is among the highest of any group in our society.

Poverty is rampant on Indian Reservations as is alcoholism, mental illness, and a general state of hopelessness is a typical day among Indian people.

What is wrong? The unilateral approach to solving Indians' problems, or for that matter the unilateral approach to solving all Americans' problems, has not worked, will not work and cannot work. Solution to problems by creating more offices, more bureaus, more staff and more specialists only complicates the problems even more. We are already in a state of stagnation and inertia in this country as far as our governmental system is concerned.

People must be given the responsibility and the opportunity to provide leadership in their local communities. Proper allocation of the Nation's resources, the proper regulation of the various interests and proper protection



of the national interests, including public welfare, should be the main role of our governmental system. With the rarest exception, government should not operate programs. Communities, even below the city and county governments, should be the only area of program activities. Government will simply play the role of monitoring, reviewing, and the accounting for all public expenditures.

The practice that has built up over the past 100 years should be reversed, not back to the jungles of the past, but toward more equitable and effective uses of our limited resources. This should be the task for the next 100 years.

This is the reason why Self-Determination touches a responsive chord in our society and it should be the heart of our heritage for the future.

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#### THE CASE FOR FULL FUNDING OF TITLE IV

It might appear that the following list of Entitlement Projections is exaggerated in order to make a stronger case for more funding by Congress. To the contrary, they are actual projections based on formal requests for funding and reflect the long ignored need in the area of Indian Education. When this need is transformed into budget terms, the numbers become very dramatic. So the list and figures demonstrate the true national scope and nature of the massive need for increased funding of Title IV.

It is hoped that Congress will recognize that the funding request for Title IV is realistic and necessary in order to bring reasonable equity to the program funding for Indian Education.

INDIAN EDUCATION ACT OF 1972

TITLE IV, PART A

1975 - 76

Title IV has been funded at less than 10% of its Congressional authorization.

The following table illustrates the potential of Part A if fully funded.

LEGEND:

1. States with public school districts serving at least 10 or more American Indian and Alaskan Natives in grades K - 12.
2. Number of eligible American Indian and Alaskan Native students, K - 12, enrolled in public schools in respective states.
3. Full Entitlement - If this phase of the Indian Education Act of 1972, Title IV, Part A was fully funded, then figures would be the individual state's entitlement which is computed on the individual state's per pupil expenditure level.
4. This represents a percentage of the total entitlement that each state is eligible to receive based on the total appropriations for this specific year. In cases where all eligible LEAs - Public school districts do not participate, the state's allocation is pro-rated to include the entire state's appropriated share of the entitlement.

TITLE IV PART A ENTITLEMENT

State	Number of Eligible States	Full Entitlement	Entitlement Based Appropriation
Alabama	1301	\$837,375.64	\$61,160.96
Alaska	16,928	\$28,520,971.52	\$2,083,140.42
Arizona	31,469	\$27,274,182.30	\$1,992,075.81
Arkansas	1,246	\$789,465.60	\$57,661.67
California	30,344	\$30,510,892.00	\$2,228,479.99
Colorado	2,624	\$2,488,346.94	\$181,745.99
Connecticut	445	\$531,419.00	\$38,814.19
Delaware	85	\$102,697.00	\$7,500.86
District of Columbia	28	\$40,051.76	\$2,925.33
Florida	2,768	\$2,426,207.36	\$177,207.41
Georgia	368	\$294,414.72	\$21,503.68
Hawaii	73	\$74,813.32	\$5,464.28
Idaho	2,400	\$1,727,904.00	\$126,204.09
Illinois	2,059	\$2,433,449.74	\$177,736.40
Indiana	1,119	\$990,247.86	\$72,326.49
Iowa	833	\$832,816.74	\$60,827.96
Kansas	2,075	\$1,953,571.00	\$142,686.54
Kentucky	384	\$249,262.08	\$18,205.81
Louisiana	4,803	\$4,056,709.86	\$296,297.60
Maine	686	\$561,312.64	\$40,977.60
Maryland	1,354	\$1,572,156.48	\$114,828.55
Massachusetts	459	\$501,081.12	\$36,598.34

# TITLE IV PART A ENTITLEMENT

State	Number of Eligible States	Full Entitlement	Entitlement Based Appropriation
Michigan	12,774	\$14,644,369.08	\$1,069,607.95
Minnesota	11,254	\$13,875,630.42	\$1,612,920.02
Mississippi	177	\$105,346.86	\$7,694.40
Missouri	872	\$773,516.32	\$56,496.65
Montana	11,207	\$10,811,392.90	\$789,651.92
Nebraska	2,035	\$1,933,779.10	\$141,240.97
Nevada	2,810	\$2,650,560.60	\$193,593.98
New Hampshire	23	\$20,262.54	\$1,479.94
New Jersey	224	\$307,704.32	\$22,474.33
New Mexico	23,964	\$19,715,182.80	\$1,439,975.24
New York	5,700	\$9,629,010.00	\$703,292.21
North Carolina	15,045	\$11,191,072.80	\$817,383.52
North Dakota	4,303	\$3,514,862.52	\$256,721.52
Ohio	942	\$867,732.72	\$63,378.16
Oklahoma	86,376	\$63,097,668.00	\$4,608,581.61
Oregon	3,919	\$4,401,428.90	\$321,475.07
Pennsylvania	818	\$975,465.00	\$71,246.72
Rhode Island	199	\$223,401.38	\$16,316.93
South Carolina	415	\$288,690.30	\$21,745.74
South Dakota	10,141	\$8,371,598.32	\$611,452.08
Tennessee	233	\$154,893.74	\$11,313.23
Texas	2,549	\$2,024,619.72	\$147,874.76



# TITLE IV PART A ENTITLEMENT

State	Number of Eligible States	Full Entitlement	Entitlement Based Appropriation
Utah	4,219	\$3,255,211.64	\$237,756.95
Vermont	20	\$19,566.80	\$1,429.12
Virginia	1,024	\$907,161.60	\$66,257.97
Washington	17,955	\$18,970,893.90	\$1,385,612.62
West Virginia	128	\$95,997.44	\$7,011.52
Wisconsin	7,813	\$8,508,825.78	\$621,474.92
Wyoming	1,382	\$1,516,579.16	\$110,769.25
	<hr/> 332,264	<hr/> \$310,999,549.98	<hr/> \$22,715,053.44

## RECOMMENDATION # 2

*Title IV of the Indian Education Act must be fully funded in order to effectively meet the unfulfilled needs and expectations of this Act. The present funding level of \$55 million is far short of the full funding level of \$519,750,000 authorized by Congress.*

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Congress demonstrated keen legislative wisdom when it enacted the Indian Education Act of 1972. The effectiveness of the Act is best illustrated by its fast program growth and many requests for widely diverse funding. Two years of Title IV program experience now provides an opportunity to more sharply focus on the future funding requirements of Indian Education.

In January of 1975, NACIE's Legislative Committee formed a broad based Ad Hoc Committee to develop a comprehensive position paper on funding for Indian Education. The Statement that follows is a result of that effort and was first published in March 1975.

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STATEMENT TO THE NATIONAL ADVISORY  
COUNCIL ON INDIAN EDUCATION

MARCH 1975

INTRODUCTION

The purpose of this paper is to update a document presented to the Office of Management and Budget in October 1973 by a number of Indian Educational Organizations and interest groups. The presentation was made on October 4, 1973, for the purpose of outlining a rationale for full funding not only of Title IV, P.L. 92-318, "The Indian Education Act", but also a rationale showing the need for continued funding of the Johnson O'Malley Act, and P.L. 874, "Impact Aid". Since that time we have witnessed a major upheaval in National Politics. Gerald Ford is now President of the United States. Congressional seats have been won and lost, as have powerful positions on Congressional Committees. While the audience to whom this presentation is directed has changed, the need for full funding of Federal Indian Education programs has not changed. Moreover, we find ourselves in the grip of a national economic crisis, a crisis which is being felt at every level of the economy and which makes our funding needs more acute. It is our hope that this presentation by the "Ad Hoc Committee" on Indian Education will be the starting point of a joint effort by Indian communities, their leaders and the Federal Government to bring about the goal of full funding of Federal Educational Programs for Indian children.

In addition to the economic and political changes there has been a significant legislative development in the enactment of S. 1017 into Public Law 93-638. President Ford on January 4, 1975, stated: "I have signed into law S. 1017, the Indian Self-Determination and Education Assistance Act. My Administration is committed to furthering the Self-Determination of Indian communities without terminating the special relationships between the Federal Government and the Indian people."



President Ford goes on to say: "It will be through the initiatives of Indian communities that the authorities provided in this act will be implemented. I urge these communities to make the fullest possible use of them and pledge the support of this Administration."

We believe that only through "initiatives of Indian communities" and persistence in making our view known that the Federal Government will appropriate the funds that are necessary to implement the present laws that authorize funds for Indian Education.

As an "Ad Hoc Committee" we formed at a meeting in Denver, Colorado on January 17-18, 1975, which was called by the "Legislative Committee" of the National Advisory Council on Indian Education. Yet, our committee, is truly representative of the broad Indian Educational Community, and as such we intend to speak out for our constituencies. We hope that our views are received and furthered through the efforts of the National Advisory Council on Indian Education

#### TODAY'S ISSUES

The presentation mentioned above was developed specifically for O.M.B. It was the Indian communities' feeling that O.M.B. understanding of the status of Indian educational needs was vital to the approval of budget amounts necessary to provide for such needs. This presentation is directed to the National Indian Advisory Board and indirectly to the respective government policy and decision-making bodies. We believe, therefore, that it is necessary to list issues which we feel are vital to the further development of Indian Education.

These issues include, but are not limited to, the following:

- 1) Title IV funding level;
- 2) Appropriations for and implementation of P.L. 93-638 (S.1017)
  - a) Appropriations for Title I, P.L. 93-638, contracting with Tribes and Tribal organizations



- b) Appropriations for and distribution formula for Title II,  
P.L. 93-638 (S. 1017) which amends the Johnson O'Malley Law.
- 3) The adequacy of Impact Aid, P.L. 874 for Indian school districts  
to provide basic support monies for Indians in such schools;
- 4) The lack of adequate state "basic support" funds in Indian  
school districts;
- 5) The development and articulation of an adequate statement and  
policy for Tribal educational jurisdiction.

While these issues encompass problems that by no means lend themselves to an easy solution, they are issues that this body, the National Indian Advisory Board must be cognizant of and we hope take positive steps along with other Indian educational interest groups to resolve.

#### INDIAN YOUTH PROFILE

326, 354 total--of these:

48,000 on reservations attend BIA schools

9,000 attend private or mission schools

225,000 (or more) attend public schools

29,138 attend public schools with 10 or less Indian pupils

12,000 not in school

The above figures are USOE's projection of Indian enrollment found in their publication "Indian Education Act of 1972, Report of Progress for the First Year of the Program", dated March 31, 1974, page v. While we would tend to feel that there are more Indian children out of school than the 12,000 listed in the USOE publication, the figures do show that the greater number of Indian children are in public schools. Thus we must continue to be concerned with sources of finance for such schools for basic support, compensatory programs, and for cultural programs. Of equal importance is control and monitoring of expenditure of such funds. This

is an area in which NACIE has specific responsibilities.

### THE QUESTION OF DUPLICATION OF SERVICES

One of the recurring questions by budget policy makers is that which asks if in fact there is a duplication of services by the various authorities. We understand that this question is dealt with in the recently completed "USOE/BIA Study of the Impact of Federal Funds on Local Educational Agencies Enrolling Indian Children". As each and every one of you know, in spite of all that is said about duplication of services, there still exists a lack of adequate financing to meet the needs of educating our children. We would urge you to review, along with us, the implications, findings, and recommendations of this study.

### RATIONALE FOR FULL FUNDING

We have attached copies of the original presentation to O.M.B. referred to above. The arguments for full funding are very simple and are summarized below.

1. The responsibility for financing the basic support of Indians in public school is exactly the same as that of the responsibility of any other student. It is a state responsibility.
2. In most Indian districts there is a lack of adequate tax base to provide for basic support. P.L. 874, Impact Aid, should make up such inadequacies, therefore, full funding of P.L. 874 is required.
3. "The 1970 Survey of Comprehensive Education" shows that 62% of classroom teachers for Indian children have no training in teaching academically disadvantaged students.
4. The same survey showed that over 46% of 6th grade Indian students had critical needs in basic foundation subjects and 50% of such children had cultural identity problems.
5. Such needs can be reasonably projected to other grades. Such a

projection indicates that one-half or approximately 160,000 Indian children have critical needs for compensatory and culturally related programs.

6. A guideline for establishing a dollar amount for dealing with these needs is the figure of \$1,800.00 to \$2,000.00 used by USOE for the follow-through project.

The following recommendation is that from the paper presented to O.M.B. in October 1973.

#### RECOMMENDATIONS (From 1973 Presentation)

1. CONTINUED FUNDING OF JOHNSON-O'MALLEY PROGRAMS
2. FULL FUNDING OF P.L. 91-874 (SAFA)
3. FULL FUNDING OF I.E.A. TITLE IV, P.L. 92-318 ACCORDING TO THE FOLLOWING SCHEDULE:

FY	PART A	PART B	PART C
75	\$80 Million	\$34 Million	\$5 Million
76	\$120	\$50	\$10
77	\$160	\$50	\$15
78	\$200	\$50	\$15

TITLE IV, P.L. 92-318 IS THE ONLY FEDERAL PROGRAM DESIGNED TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EVERY INDIAN CHILD.

We have not used the figure of \$1,800.00 to \$2,000.00 in the above recommendations. Even using the recommendations for FY'78 of a total \$265 million dollars and the 1970 figure of 300,000 Indian students, we arrive at a figure of approximately \$880.00 per student which when added to the average P.P.E. in Indian school districts including JOM, SAFA and Title I Federal monies, we arrive at a

total of approximately \$1,500 per student. We will not go into this breakdown at length. We feel what is most important at this time is the acknowledgement by the Administration of its responsibility and the finances needed to meet that responsibility. We have demonstrated that Title IV is not a duplication of existing efforts, in fact existing efforts no way approach meeting Basic Operational Needs. We believe that Title IV at this point is the only Federal program which has the potential for addressing the special needs of all Indian children. We have limited ourselves to a discussion of FINANCIAL NEEDS although we indicated a need for a serious look at safeguards or control by the Indian community. We believe that Indians should control the Educational Institutions in their communities. For that reason we do not endorse Title IV, JOM, SAFA or any current Federal program as the ultimate answer. We would be happy to work with both the Administration and Congress to develop a more adequate legislation that includes both Federal Responsibility for Financing as well as adequate safeguards in terms of Indian control.

#### CONCLUSION

We hope that you consider this presentation to you today as only the beginning of an effort to address the issues which we have listed as Today's Issues. We hope to refine the rationale above so that it makes more sense to the respective budget decision-makers. We hope we can continue to work with you toward a realization of an adequate source of finance for Indian Education as well as an efficient and effective Indian Educational system.



*Congress must continue to emphasize the special educational needs of American Indians by allowing for greater Indian participation, direction and control over programs designed to make them more self-sufficient citizens.*

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#### THE SPECIAL EDUCATIONAL NEEDS OF INDIAN PEOPLE

Since American Indians were first disenfranchised of their basic rights as individuals by the U.S. Government, they have slowly recovered those rights as the nation has matured in its wisdom. But in order to close the great time gap between the Indian people and the majority of U.S. citizens, special education must be provided since the typical public schooling process is not designed to meet this need of Indian People.

Title IV, PL 92-318 is the only federal program designed to meet the special educational needs of every Indian child. This fact makes the continuation and expansion of The Indian Education Act a crucial matter.

The severe underlying problem that has acted as the main deterrent to equal educational opportunity for Indians appears to be the non-Indian education authorities' historical resistance to the bi-cultural educational desires and needs of Indians as expressed by the Indian community itself for so many years. It would seem that because the non-Indian educators could not comprehend (or feared?) this Indian position in the past, they would not allow it to be included in the schooling systems. Title IV bridges this gap for the first time. It recognizes the imperative

nature of the problem of Indians becoming educated in America, and it is the beginning of the solution.

The barriers to providing special education to Indians has been manifested by Federal, State and Local agency policies for many years. In a comprehensive report presented before the Office of Management & Budget by a large consortium representing the Indian Community at-large, they stated,

"FEDERAL DOMINATION AND STATE CONTROL RETARDS PROGRESS IN INDIAN PEOPLE. INDIANS ARE DEPRIVED OF OPPORTUNITY TO DEVELOP LEADERSHIP SKILLS FOR SELF-GOVERNMENT. INDIANS NEED EFFECTIVE VOICE TO PLAN AND IMPLEMENT EDUCATIONAL PROGRAMS FOR INDIAN NEEDS AND GOALS."

"This Administration has acknowledged this in the principle of Self-Determination without termination. Indeed the President has asserted in his historic declaration of Indian Policy in 1970; Consistent with our policy that the Indian Community should have the right to take over the control and operation of federally funded programs, we believe every Indian Community wishing to do so should be able to control its own school. In spite of the statement of policy and the support of that policy by the Indian Community as a whole, we continue to struggle along with only superficial acknowledgement of these principles by the Governmental Agencies. We believe that the key to lasting development of the Indian people is an Educational program adequately financed by the Federal Government in accordance with its responsibilities but of equal if not greater importance, adequately controlled by the Indian Community"(1)

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(1) Footnote: Complete text of presentation in Appendix entitled, The Need For Full Funding Of Federal Indian Education Programs.

## Indian Teachers For Indian Students

"Teachers of Indian students are not prepared to teach Indian students nor do they have any awareness of the particularly unique family and tribal structure of Indian students." (1)

A strong case is made for the position taken by the Indian consortium noted earlier that Indian youth have a very poor achievement rate in the existing school systems and that this condition will not change until Indian teachers are predominant in the educational lives of this youth group. The report states, "STUDENT ACHIEVEMENT IS BELOW ALL OTHER MINORITY GROUPS. PRE-SCHOOL GRADUATION DROP-OUT ESTIMATES RANGE FROM 45% TO 62%. DROP-OUTS BEGIN IN THE 4th GRADE.'" (1)

"We know of a community on the Pine Ridge Reservation which graduates from High School only 10% of those students who enter first grade. Why is this the Case?"

(Reply)

"62% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE NO TRAINING IN TEACHING ACADEMICALLY DISADVANTAGED STUDENTS." "70% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE HAD NO PARENTAL CONTACT."

"ETHNIC BACKGROUND OF CLASSROOM TEACHERS OF INDIAN CHILDREN:

14% BLACK

78% WHITE

8% OTHER: I.E., SPANISH SURNAMED, ORIENTAL AND INDIAN. (WE ESTIMATE THE FIGURE FOR INDIANS TO BE 1/2 OF 1% TO A MAXIMUM OF 2%)"

(1) Footnote: Complete text of presentation in Appendix entitled, The Need For Full Fundign Of Federal Indian Education Programs.

"The relevance of Indian teachers vs. non-Indian teachers in an Indian school is not quantifiable if we measure only formal teaching techniques, intelligence, and acquired knowledge. Yet we believe it can be shown that an understanding of a child's home situation and appreciation of his emotional needs relative to classroom and group learning situations must be a prerequisite for any teacher of Indian students. An effort must be made to both increase the number of quality Indian teachers in Indian Schools as well as to re-educate the 98% of non-Indian teachers of Indian students to their special needs." (1)

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(1)Footnote: Complete text of presentation in Appendix entitled, The Need For Full Funding Of Federal Indian Education Programs.



### "SIXTH GRADE INDIAN STUDENT NEEDS"

READING ASSISTANCE	46%
MATH TUTORING	47%
LANGUAGE ASSISTANCE	47%
CULTURAL IDENTITY PROBLEMS	50%
HEALTH PROBLEMS	21%
PSYCHOLOGICAL COUNSELING	21%
MALNUTRITION	3%

"The figures above represent figures from the critical needs of sixth grade Indian students as cited in the 1970 Survey of Comprehensive Education. The figures were obtained by a Survey of Teachers in Schools teaching throughout the nation. There were small variations from region to region. The above figures are a mean of the needs in each region. We acknowledge that the figures are the assessment of teachers who for the most part don't understand Indian students in the first place, yet they still are indicative of critical needs. We also point out that a significant amount of Indian students have dropped out of school before reaching the sixth grade. The percentages above indicate that the teachers assessment is that 46% of Indian students need special assistance reading, 47% of Indian students need special tutoring in math. Without belaboring this point we would say that without this special assistance as we progress through the grades from 1st to 12th grade it would not be unreasonable to project that these figures can be applied to all Indian students."

"Given this assumption it would not be unreasonable to project that 47% of the 500,000 Indian student or 235,000 Indian students need special assistance in language and math. Given the above assessment by teachers as well as the dropout rates, we don't think you will argue with us that there are no special needs of Indian students." (1)

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(1) Footnote: Complete text of presentation in Appendix entitled, The Need For Full Funding Of Federal Indian Education Programs.

## erican Indian Exceptional Children

Over the years of the education rights movement the tendency has been to focus on the handicapped child who had problems in mental, physical, emotional or learning areas. The gifted and talented Indian child was generally ignored as one requiring special consideration because they were exceptional. Yet their needs are just as real because their world is just as unique. The problem becomes even more complicated due to the diverse nature of the Indian population in addition to varied number of government programs that provide services for this need. Special attention for Indian children of exceptional ability is slowly gaining recognition but is far from sufficient to make any significant impact on the needs and the problem.

The Council for Exceptional Children has recommended to NACIE five (5) recommendations in which NACIE concurs and are included hereto emphasize the critical nature of this problem: (1)

"(1) That education of exceptional Indian children be considered a priority of the Office of Indian Education, the Bureau of Indian Affairs and other Federal agencies affecting the education of Indian children.

(2) That a coordinated plan for the education of exceptional Indian children be developed under the aegis of NACIE.

(3) That NACIE recommend that the Bureau of Indian Affairs develop a line item budget and specific mandatory legislation for the education of exceptional Indian children.

(4) That NACIE recommend that the Education Task Force of the American Indian Policy Review Commission devote specific attention and time to policy matters relating to the education of exceptional Indian children.

(5) That NACIE meet with the Bureau of Education for the Handicapped to develop strategies for assuring the development of adequately trained staff for programs for the education of exceptional Indian children."

(1) Footnote: Complete text of the entire report embodying these recommendations is in the Appendix entitled, Background Paper on American Indian Exceptional Children, from the Council for Exceptional Children.

The Role of the American Indian Policy Review Commission:

Task Force Number Five -- Indian Education

RECOMMENDATION #4

*That the National Advisory Council on Indian Education be requested by the Congress to testify on the final report of the American Indian Policy Review Commission Task Force Report on Indian Education in order to insure that the report reflects the balanced perspective of the Indian Community at-large.*

NACIE offered its assistance to the newly formed American Indian Policy Review Commission (1) to help them formulate their recommendations for their report on Indian Education to be completed in 1977. To the amazement of the Council, this Commission rejected the Council's offer. (2)

Since the Commission's membership is composed of Indians, and the Council's membership is composed of fifteen Indian members and an all-Indian staff in Washington, D.C., whose sole purpose it has been to deal with the problems of Indian Education over the past three years, the Commission's rejection comes as both an affront and a disappointment to NACIE. The Council does not have any advance knowledge that there might be any differences with the Commission on philosophies or recommendations on Indian Education, so NACIE finds itself in another situation where Indian people are again by passed and their involvement and participation denied.

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Appendix:

(1) American Indian Policy Review Commission, P.L. 93-580, Jan. 2, 1975

(2) Appendix: Letter, NACIE to Amer. Ind. Policy Rev. Comm., Mar. 17, 1975  
Letter, Ameri. Ind. Policy Rev. Comm. to NACIE, Apr. 15, 1975.

The Council is further concerned that this lack of coordination between the two bodies may appear to the Congress and the Indian Community as a duplication of work, time, and budget funds.

The Commission has a specific Task Force Number Five with the purpose of developing that part of the Commission's report dealing with Indian Education. NACIE would hope this Task Force would not ignore available knowledge and experience in its apparent concern with pride of sole authorship. The Council has found from its own experience that the subject of Indian Education needs all the wisdom and guidance that can be found in order to determine the solutions to the very complex Indian Education problems yet to be resolved.

Lacking a proper working relationship with the Commission, NACIE can but offer its assistance through the Congress in its official capacity as The National Advisory Council on Indian Education, created by the U.S. Congress with its members all appointed by the President of the United States:

First, the Commission Task Force on Indian Education should not carry on its deliberations and writings without understanding that many fine minds have dealt with the problem over many years leaving still many difficult questions to be answered. Mr. Lloyd Elm in his article entitled, Needed: A Philosophy of Education for American Indians, deals with this point when he states, "For the past five years educators across the country, who have been actively involved in the education of American Indians, have mulled over the definition of the special educational needs of Indian children. There have been conventions and workshops where the highest levels of educational intellect have been asked to list these special educational needs, and then in turn to design a model curriculum that would effectively deal with these needs. The accuracy and effectiveness of these efforts have been limited. After several frustrating experiences of



participating in such list making activities, I realize why the process was not working as anticipated. They were operating under the false assumption that there exists a list of educational needs for all Indian children from all tribes living in all types of community situations."

"A second reason why the process did not work is that it concentrated on statements of "problems" based on devastating historical statistics which have been collected by groups like us, before us, who were equally unsuccessful in defining the educational needs of American Indians." (1)

Perhaps the most poignant observation Mr. Elm makes is the following, "At the present time, it is impossible to measure the impact that the American Indian Policy Review Commission will have on the future of American Indians. However it is obvious that tremendous changes could occur as a result of the recommendations relayed to the Congress of the United States in January of 1977. The most basic characteristic of these recommendations is that they be representative of the traditional values, beliefs and attitudes that have sustained us as American Indians to this day." (1)

There is a fear of an "Ivory Tower" atmosphere existing around the Commission's work as demonstrated by their enclave attitude toward NACIE: A fear that the Commission's Task Forces are not reaching out into the Indian Community in search of answers and recommendations. The Council has an earnest desire to assist Task Force #5 on Indian Education achieve a credible report: Credible with both the Congress and the Indian Community. But The Commission's reluctance to communicate with the Congressionally mandated Council on Indian Education is

(1) Appendix: Needed: A Philosophy of Education for American Indians, by - Lloyd Elm, American Indian Journal of the Institute For The Development of Indian Law.

a failure to seize on an opportunity to involve Indian people and Indian leadership. A credibility gap is already in the making in this regard. In Task Force #5's recent quarterly report to the Commission they state, "To insure input from the Indian Community throughout the research phase, the Task Force has begun a dialogue with national Indian organizations. Through the conferences of NIEA and NCAI Indian tribes and communities have been invited to review and comment on the objectives of the Task Force and to submit a statement of what they perceive to be the important needs and issues in Indian education. The Task Force is also scheduled to meet with AIHEC, CICSB, NIEA, nad NEA by the end of November."

The statement is not accurate. NACIE is the highest federally constituted Indian Education organization in the United States outside of the Executive Branch yet its absence from the Task Force's list would indicate that there is more involved here than mere oversight on the part of the Commission. Since the Council's direct overtures to the Commission have been ignored, the Council suggests that the Congress probe the Commission for a response and a justification for its lack of "dialogue with national Indian organizations" such as the National Advisory Council on Indian Education, Washington, D.C.

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RECOMMENDATION # 5

That the present national policy of direct Federal funding to Indian tribes, Indian organizations and Local Education Authorities for the purposes of Indian Education - be expanded, and that any attempt to initiate a policy of block grants to States for Title IV of the Indian Education Act of 1972, be avoided.

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Historically the record of the States' administration of Indian education funds, programs and policies has been less than good, in many instances reaching scandalous proportions and for the most part is feared by the Indian community at-large. The interface relationship between Federal education agencies and State education agencies is generally accepted as a governmental organization fact-of-life. What is feared by the Indian community is that the Federal government will, in the process of this interface, attempt to relinquish its federal responsibility to provide education to American Indians and leave the administration of Indian education to less sympathetic and more suppressive prone State officials.

If the Federal government eventually rejected its legal role as the principal provider and administrator of Indian education funds, then Indians would be left without recourse of appeal of any improper management of State Indian Education programs.

A case study of the Council's position on this matter is in order. Perhaps one of the best cases in point was developed by the National Indian Education Association in their Indian Education Study - States, Finances & Education: Arizona. (The Study is concise and the complete text is a part of the Appendix

of this report.) Arizona with its high Indian population is always an attractive State to study because statistical data and conclusions are so meaningful. As the study notes in its opening paragraph, "Of the eighteen school districts studied in Arizona, sixteen had over 80% Indian population and a number of these which were located on the reservation approached 100%. These school districts, particularly those serving the Navajo tribe in northern Arizona and the Apache reservations in eastern Arizona have many administrative and financial problems in common:"

With ever increasing pressures upon the States to become more innovative in determining local education funding formulas, the temptation to practice risky financial management by local school districts becomes even greater. The study notes, "Another factor in Arizona financing of public education is deficit spending. Arizona state law permits a school district to spend all of its adopted budget, whether or not expected revenues are actually received. Registered warrants, which banks are required to honor at 6% interest, are issued by the school districts for payment of bills. A number of districts studied had deficits for over three years running despite the state regulation requiring that a deficit must be made up in taxes the next year. Ganado school district indicated on the adopted budget that \$1,436,161 was going to be raised from local taxes to erase the deficit but set a tax rate that could generate less than \$600,000, thus perpetuating the deficit."

It becomes clear that as local government officials continue to be forced to make budget cuts on state education programs, the least influential of their constituency - the Indians - will suffer the most unless the Federal Government, much removed from the day-to-day local budget pressures and politics, remains responsibly in-charge of Indian education.

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## INDIAN VOCATIONAL EDUCATION

### STATEMENT OF PHILOSOPHY

The Indian situation is entirely different in that it is not part of the mainstream -- it is a separate stream, running in many cases, paralleled and certainly drawn from the same sources of basic human aspirations, and finally having as its goal, the same end result. But since its charter antedates all the significant dates of the American scene, such as 1776, 1620, 1492, it flows in a separate channel and every attempt so far to merge these channels has met with failure. Perhaps in a hundred years or so, it will be possible to merge these two streams, but presently we must recognize they are separate channels.

Presented by Warren Means - Oglala Sioux  
To the National Advisory Council on Indian  
Education

At Kansas City, MO, November 13, 1975

## INDIAN VOCATIONAL EDUCATION

### PROJECT PROPOSAL

#### BACKGROUND

Since the early 1800's when the federal government assumed responsibility for the education of Indian people, attempts to train Indians for suitable employment have been characterized by dismal failure. Until recently, these efforts proceeded under the misguided notion that Indians should be assimilated into American life and that manual training was a vehicle for effecting this. Most BIA schools at the turn of the century taught manual arts and dependency -- skills and attitudes totally unrelated to the lives and needs of Indian students. The almost universal failure of these schools was documented by the harshly critical Meriam report (1928) which labelled Indian vocational education inadequate and ineffective.

Nevertheless, the melting pot approach remained alive and took an even more disastrous shape in the BIA's relocation program of the 1950's. Relocation provided employment and financial assistance to help reservation Indians move to cities, where jobs were more plentiful. But again, this approach did not take into account the desires of Indians. Studies indicate that between 1953 and 1957 thirty percent of the "Relocates" returned to the reservation in the same year they left and eventually as many as eighty percent came home.

But rather than making Indian vocational education more responsive to Indians, the BIA in 1963 altogether abandoned its secondary school vocational education programs, replacing them with prevocational, academic programs. Its hope was that by 1970 the Indian high school graduation rate would be 90%, with half of the graduates going on to college and half to post-secondary vocational education schools located away from the reservation areas.

Although emphasis on academics is currently the trend in Indian education, it too is failing to prepare Indians for employment. Because of the high national rates of Indian attrition in both high school (42%) and college (75%), coupled with an astronomical rate of Indian unemployment (close to 40%), career-oriented vocational education remains a priority need. Since almost no one has filled the void left by the BIA in 1963 when it discontinued secondary vocational education, high school dropouts and graduates have been stranded without vocational training opportunities. Of the 240 "comprehensive high schools" operated by BIA in 17 states, none are specifically vocational education schools.

Moreover, the Indian Education Act of 1972, which many hoped would provide increased educational opportunity for Indians, has resulted in virtually no expenditures for vocational education. The funds appropriated under this Act are being utilized primarily for GED and Adult Basic Education and thus, although some programs contain small vocational components, no programs are funded specifically for vocational education.

#### STATEMENT OF PROJECT PURPOSE

The National Advisory Council on Vocational Education has taken the position that vocational education has the potential to provide maximum development of human resources both for individual fulfillment and for the needs of society. The Council maintains that vocational guidance and counseling, together with appropriate programs and efficient instruction, can reduce secondary school dropouts rates and lower national unemployment.

The National Advisory Council has recognized the general problems of Indian vocational education in its 1972 "Special Report on Indian Education."

But in spite of the Council's urging a "drastic increase" in Indian vocational education programs, the Council's advice has gone largely unheeded. In fact, according to the Office of Indian Education in USOE, there are presently no appropriations through the Vocational Education Amendments of 1968 to provide vocational education specifically for reservation Indians.

The development of Indian administered vocational education programs would serve not only the Indian people, but also the American public. These programs would reduce Indian unemployment, increase income (per capita average income for reservation Indians is only \$1115) and put reservations on the road to self-sufficiency. And with as many as 50% of the Indian families presently receiving some form of public assistance, vocational education would greatly reduce government spending in this costly area. Evidence of the possible benefits of Indian vocational education can be found in the work of the United Tribes Educational Technical Center, the only Indian controlled vocational education facility in the nation. Since opening in 1969, United Tribes has placed more than 350 graduates, 70% of whom were previously on welfare.

An especially urgent need for Indian vocational education lies in the nation's growing demand for energy. As NACVE has noted many time, particularly in the papers "Reclaiming the Skills and Productivity of the American People" and "The Challenge to Vocational Education in the Economic Crisis," our nation is facing serious problems. As we search for new and more efficient means of utilizing natural resources, new technology is being developed and new occupations are emerging. Because many Indian lands contain or are located adjacent to sources of coal, natural gas and oil, the training of Indians to fill these new jobs will not only revitalize reservation economies, but will ensure an orderly and expedient development of our natural resources and a continuous flow of energy.



## PROPOSED NACVE PROJECT

Clearly, it is time that the federal government placed a higher priority on Indian vocational education. Legislation providing for the establishment and operation of secondary and postsecondary vocational programs, as well as residential Indian vocational training schools, located on or near reservations, are needed now. New legislation would overcome the chronic lack of overall Indian education planning, and the resulting disjointed approach to Indian education, by coordinating the efforts of the BIA and OE, and establishing local Indian boards of vocational education. Moreover, this legislation would be modeled after existing vocational education legislation in that reservation plans would be required to include needs assessments; however, Indian vocational education reservation plans would also require inclusion of the relationship of training to reservation economic development.

The first step in developing this urgently needed legislation is to survey present programs and needs. Reliable data on Indian vocational education is sadly lacking. The two federal agencies which should be most responsive to the need for Indian vocational education programs -- the Office of Education and the Bureau of Indian Affairs -- do not even maintain records on programs offered or special teacher/guidance counselor training. In October the House Interior Committee on Appropriations did commission a study on Indian education, but characteristically omitted vocational education from the specific scope of the study.

Consequently, we are asking for the Administrative Committee's support in the preparation of a paper which would do an in-depth survey of Indian vocational education needs and, on the basis of these needs, recommend legislative remedies. This study will necessitate a thorough review of national and Indian manpower projections, Indian economic development plans, and the structure and operation of both the national Indian education system and local BIA secondary and post secondary schools.

When completed, this paper will serve as a basis for NACVE to develop testimony for proposed Indian vocational education legislation. 2000 copies of the proposed testimony will be distributed to Congressional and government agency officials and 10,000 copies for general NACVE distribution.

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RESOLUTIONS OF THE AD HOC COMMITTEE  
OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION







RESOLUTION # 1-75

WHEREAS: The "AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION" is concerned with improving education for Indian People by helping them gain control of their own education, and

WHEREAS: The "ADHOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION" is promoting the development of educational "Master Plan(s)" designed to improve educational opportunities for Indian People, and

WHEREAS: The success in developing these educational master plans is dependent upon accurate and available information and data contained in such studies as the recently complete United States Office of Education/Bureau of Indian Affairs (USOE/BIA) study entitled "THE IMPACT OF FEDERAL FUNDS ON LOCAL EDUCATIONAL AGENCIES ENROLLING INDIAN CHILDREN".

NOW THEREFORE BE IT RESOLVED: That the United States Office of Education and the Bureau of Indian Affairs make immediately available the major findings, conclusions, and recommendations of the aforementioned USOE/BIA study to the National Advisory Council on Indian Education and the AD HOC Committee of Native Americans Concerned With Indian Education.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
\_\_\_\_\_  
Gwen Cooper, Secretary

Attested to by :

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman

- WHEREAS: The "AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION" is presently compiling educational statistics and related data as evidence and budget justification for increased appropriations for Indian Education, and
- WHEREAS: This information and data is vital to the development and/or amendment of current and/or new legislation for the betterment of education for Indian people, and
- WHEREAS: It is extremely difficult to obtain such information from those federal agencies that provide assistance to Indian people.
- NOW THEREFORE BE IT RESOLVED: That the United States Office of Education and the Bureau of Indian Affairs establish a priority to develop educational needs of Indian people
- BE IT FURTHER RESOLVED: That the United States Office of Education and the Bureau of Indian Affairs allocate funds to responsive non-profit Indian Educational organizations to be used in updating the needs assessment study entitled "The need For Full Funding of Federal Indian Education Programs" presented to the Office of Management and Budget on October 4, 1973 by representatives of the following organizations:
- American Indians for Opportunity (AIO)
  - Coalition of Eastern Native Americans (CENA)
  - Coalition of Indian Controlled School Boards (CICSB)
  - Institute for Development of Indian Law (IDIL)
  - National Advisory Council on Indian Education (NACIE)
  - Native American Lobby (NAL)
  - National Tribal Chairman's Association (NTCA)
  - National Congress of American Indians (NCAI)

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
David M. Gipp, Vice Chairman

WHEREAS: The AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION are in the process of developing "Master Plan(s)" for the improvement of educational opportunities equally for all Indian people, and

WHEREAS: The development of these Master Plans are contingent upon accurate and available information contained in such studies as the recently completed United States Office of Education/ Bureau of Indian Affairs joint study entitled, "The Impact of Federal Funds on Local Educational Agencies Enrolling Indian Children".

NOW THEREFORE BE IT RESOLVED THAT: The appropriate Senate and House Committees request the United States Office of Education/ Bureau of Indian Affairs to make immediately available the major findings, conclusions, and recommendations of the aforementioned study to the National Advisory Council on Indian Education and the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
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Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman

WHEREAS: The Indian Education Act of 1972, P.L. 92-318, has not provided sufficient funding to meet the expressed educational needs of Indian people, and

WHEREAS: Past and current funding has not exceeded 10% of the total funding need as expressed in the report entitled "The Need For Full Funding of Federal Indian Education Programs", and

WHEREAS: It has been erroneously stated that Title IV funding is a duplication of JOM, Title I, etc.

NOW, THEREFORE BE IT RESOLVED THAT: The United States Office of Education through the appropriate Congressional Committees request that all parts of Title IV, P.L. 92-318, The Indian Education Act, as amended in P.L. 93-380, Title VI, Part C, be funded at not less than 50% of the total authorized appropriation for Fiscal Year 1976, and not less than 100% beginning Fiscal Year 1977.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
\_\_\_\_\_  
Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman



- WHEREAS: The original legislation authorizing funds for teacher training under the Education Professions Development Act of 1972 has expired and has not been renewed, and
- WHEREAS: A network of nationwide programs has been initiated during the past two fiscal years which addresses programs to the needs of professional development for Indian teachers of Indian children, and
- WHEREAS: This program now supports the professional training of a significant number of Indian people who have now entered teacher preparation with the assistance of these federal projects, and
- WHEREAS: Legislation authorizing professional development exists under Title IV (Indian Education Act) Part E to establish and maintain these programs, and
- WHEREAS: Prudent use of federal funds mandates a moral decision to continue programs that specifically address teacher training with an Indian preference, and
- WHEREAS: There is a continuing need for more professionally prepared Indian teachers and educational specialists to work within the growing number of Indian community programs, to fill vacancies as they occur within BIA school systems and in many rural public school systems that are charged with educating a significant number of Indian children.

NOW THEREFORE BE IT RESOLVED THAT: Congress immediately appropriate add on funds necessary to sustain at an efficient level eligible programs now evaluated as effectively training professional educators for Indian children under the existing legislation.

BE IT FURTHER RESOLVED: That NACIE sustain the need for trained Indian teachers as a high priority in the overall needs of Indian education.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
\_\_\_\_\_  
Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman

RESOLUTION # 6-75

- WHEREAS: The Bureau of Indian Affairs is currently developing rules, regulations, and procedures for contracting with Indian Tribes and established national Indian organizations for the education of Indian people, and
- WHEREAS: There is a pressing need to prepare Indian Tribes and other Indian organizations for contracting with government agencies for the education of Indian people, and
- WHEREAS: Technical assistance and training is badly needed in order to prepare Indian Tribes and Indian organizations to successfully manage and perform government contracts, and
- WHEREAS: There exists a critical need to establish a centralized system to monitor and control government contracting with Indian Tribes and organizations.

NOW THEREFORE BE IT RESOLVED: That the Bureau of Indian Affairs will invoke the Buy Indian Contract Policy for all Indians, and utilizing contracts awarded by the Bureau of Indian Affairs.

BE IT FURTHER RESOLVED: That the Bureau of Indian Affairs take immediate action to address the urgent need of preparing Tribes and Indian organizations for government contracting by making funds available to Indian Tribes and Indian organizations for training and technical assistance in contracting.

BE IT FURTHER RESOLVED: That the Bureau of Indian Affairs provide the necessary funds and other resources for use in establishing a centralized contracting agency to monitor control, and manage government contracting with Indians.

BE IT FURTHER RESOLVED: That the Bureau of Indian Affairs permit negotiation of contracts with Indian Tribes and Indian organizations under the Buy Indian Act to the exclusion of non-Indians, and that Indian Tribe is to be interpreted as any Indian Tribe, band, nation, or other organization or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and includes village corporations, regional corporations, and Native associations provided for or recognized by the Alaska Native Claims Settlement Act.

DATE: April 5, 1975

CERTIFICATION: The Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper

Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm

Lloyd Elm, Chairman

(Sgd) David M. Gipp

David M. Gipp, Vice Chairman

RESOLUTION # 7-75

WHEREAS: Title VIII of P.L. 93-380 authorizes studies that will specifically assess and affect Indian programs and communities in respect to education, and

WHEREAS: The potential contracts for conducting these studies will be let by respective federal agencies; and

WHEREAS: The Indian has been studied into infinity by the whiteman; and

WHEREAS: Assessments of programs have continually assumed the merger of Indian children into the life and value system of the dominant society.

THEREFORE BE IT RESOLVED: That the Secretary of Health, Education and Welfare directed that Indian people be involved in the studies and surveys relating to Title I of the Elementary and Secondary Education Act and the joint study involving the Department of Health, Education and Welfare and the Bureau of Census.

BE IT FURTHER RESOLVED: That Indian schools and communities be included with the "Safe Schools" and "Athletic Injuries" studies.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
\_\_\_\_\_  
Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman

WHEREAS: The Bureau of Indian Affairs is currently practicing an educational policy which discriminates against certain Indian children in that, enrollment in certain Bureau Schools is primarily limited to Indian children who are classified as Social Problems, and

WHEREAS: The Bureau of Indian Affairs also has a policy which limits the number of Indian children from California Tribes who can attend the Sherman Indian High School.

NOW THEREFORE BE IT RESOLVED: That if such a policy exists, that this information be made available to all Indian Tribes and organizations.

BE IT FURTHER RESOLVED: That the Commission of Indian Affairs take immediate action to eliminate these discriminatory practices and policies.

DATE: April 5, 1975

CERTIFICATION:

This Resolution was adopted by the AD HOC COMMITTEE OF NATIVE AMERICANS CONCERNED WITH INDIAN EDUCATION at a duly called meeting at the Rodeway Inn, San Diego, California, April 5, 1975.

(Sgd) Gwen Cooper  
\_\_\_\_\_  
Gwen Cooper, Secretary

Attested to by:

(Sgd) Lloyd Elm  
\_\_\_\_\_  
Lloyd Elm, Chairman

(Sgd) David M. Gipp  
\_\_\_\_\_  
David M. Gipp, Vice Chairman



*That Congress give priority to the post-secondary needs of all American Indian and Alaskan Natives as recognition to this crucial necessity in meeting the challenge of Self Determination.*

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Post Secondary Education for American Indian and Alaskan Natives

The NACIE Council is fully supportive of the desires, requests and plans to meet the needs of Indian higher education. Historically, only a few Indian students were able to exercise the right of the upper levels of education. The restrictions and constraints have been and still are centered on two main factors: One, the lack of adequate monies to attend higher education institutions. The economic base of American Indian and Alaskan Natives is typically lower than others in the U.S., precisely so because of the restrictions imposed by being forced to live on reservations and also that indigenous people's cultural values are not conducive to accumulating material wealth.

The second; typically the programs and curriculum of the non-Indian colleges and universities have not been designed to meet their special cultural needs.

The BIA and a few states have provided funding for undergraduate study. Even though these sources have increased, the recent interest in higher education has resulted in a dramatic increase in the number of Indian students desiring this kind of educational privilege.

It is noteworthy that some Indian tribes and Alaskan communities have exercised degrees of self-determination by establishing Indian Community colleges on their reservations and communities. Their immediate critical concern is the need for adequate, permanent funding to perpetuate programs that fully respect the

unique cultures that they represent. They are bi-cultural too as they meet many requirements for living in the dominant non-Indian society.

The Indian Educational Act of 1972, was amended by P.L. 93-380, Part C, Sec. 423 to include authorization for "fellowships for Indian students" for 200 students. To date there has been no specific allocation for this amendment.

The American Indian Higher Education Consortium, composed of Indian educators, is making a concentrated effort to establish a substantial legislative base for the funding of several Indian and Alaskan community colleges that will be able to exercise Indian control. Presently they are proposing legislation that will allow them to continue their development and operation.

The "Indian Self-Determination and Education Assistance Act", P.L. 93-638 of July 1975 specifically demands that native people be trained and educated to assume responsible positions in their communities to effect self-determination.

The Council supports all efforts that will promote better post-secondary opportunities for all Indian and Alaskan Natives.

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#### Title IV - Part A Projects: A Progress Report

The Council believes that the Title IV Indian Education Program has been in progress a sufficient amount of time to have established the ability to meaningfully review the results to-date. The Office of Indian Education was requested to furnish abstracts at random of a few Title IV - Part A type programs that provide a good understanding of the details of each proposal and what progress was accomplished. It was also requested that the programs selected have demonstrated the program's effectiveness in achieving intended results taken in the context of the resources, experience, and amount of the grant award of the specific contract.

The following abstracts of Part A programs are only a few of the total number funded and are not the only ones that qualify for being included here, but the inclusion of more would be ponderous and unnecessary for the purposes of this report. What follows is believed to be representative of the program activity efforts to-date and provides insight to the many complexities of the yet unfulfilled needs of Indian Education.

For a statistical and summary overview of the entire Title IV program you are referred to the report in the Appendix section entitled, The Indian Education Act of 1972, Report of Progress for the Second Year of the Program, Office of Education, H.E.W., Washington, D.C.

# A B S T R A C T

TITLE: "Minneapolis Indian Education Project"

LEA CONTACT PERSON: Ms. Rosemary Christensen  
Project Administrator  
Title IV Indian Education Project  
Minneapolis Public Schools  
807 N.W. Broadway  
Minneapolis, Minnesota 55413

PARENT COMMITTEE CHAIRMAN:  
Mr. Robert Roy  
3700 12th Ave. South  
Minneapolis, Minnesota 55407

FINAL GRANT AWARD:

\$297,170.43  
(2,646 Indian children in grades k-12)

DESCRIPTION OF PROJECT:

See attached sheets



## Description of Project

### Project Objective:

To bridge the communication gap between the Indian parents and the Minneapolis Public Schools by providing positive group experiences relating to traditional culture of Indian people.

### Evaluation Objective:

To determine to what degree the communication gap has been bridged between Indian parents and the Minneapolis Public Schools and to document the process by which this has been achieved.

### Project Objective:

To create positive classroom experiences and to promote understanding of Indian student by providing an Indian Studies Coordinator and Indian Art Teacher.

### Evaluation Objective:

To determine to what degree Indian Students classroom experiences and understanding has been enhanced through the provision of an Indian Studies Coordinator and an Indian Art Teacher.

### Project Objective:

To attempt to reduce the absenteeism rates of Indian students in the Minneapolis Public Schools by providing School-Community Social Worker Aides to assist the school personnel in identifying Indian children who have problems affecting school attendance (i.e., medical, social, physical) and to assist the school personnel in finding solutions to the problems so that Indian children may continue their educational endeavors.

### Evaluation Objective:

To assess and determine to what degree absenteeism rates of Indian students have been reduced as the result of the introduction of School-Community Social Worker Aides in the Minneapolis Public Schools.

### Project Objective:

To provide a means by which Indian parents and students may experience positive relationships with other parents, students, and school staff through group experiences.

### Evaluation Objective:

To assess the means (and the degree) by which positive relationships are created between Indian parents and students and non-Indian parents and students.

## Project Objectives:

To provide Indian Art resources to the Minneapolis Public Schools, Title IV Program, and the Indian students through lectures, classroom experiences, and teacher consultations.

## Evaluation Objectives:

To document the types and characteristics of the Indian Art resources provided and to assess the impact of their provision.

## Project Objectives:

To provide Indian Studies resources to the Minneapolis Public Schools, Title IV Program, and the Indian students through classroom experience and teacher consultation.

## Evaluation Objectives:

To document the nature and characteristics of Indian Studies resources provided and to assess the impact of their provisions.

Robert L. Rogers

1975, South Dakota

### SECTION III: REPORT OF THE FINDINGS

As noted in Section II, seven assessments were administered during the last academic year. This section report on each assessment, the implementation procedures and resulting data specific to each form.

To assess the projects objectives, primarily affective in nature, the following methodological techniques were used: student attitudinal survey, parent attitudinal survey, staff attitudinal survey, social worker aide interview, administrative interview, site observational checklist, and process observations. Gauged to assess the attitudes and perceptions of both direct and indirect participants, the assessments were implemented on various time tables throughout the year. A discussion of the specifics of implementation and a presentation of results follow for each assessment technique selected.



A B S T R A C T

TITLE: Lakota Wa Wo'Ki Ye  
(Indian Helper)  
Rapid City Independent School District #1  
Rapid City, South Dakota 57701

LEA CONTACT PERSON:

Mr. Vincent Whipple  
Director, Title IV, IEA  
Rapid City School District  
Rapid City, South Dakota 57701

PARENT COMMITTEE CHAIRMAN:

Robert L. Rogers  
Rapid City, South Dakota 57701

FINAL GRANT AWARD:

\$124,185.87

DESCRIPTION OF PROJECT:

Coordinated needs assessment efforts of the Parent Committee, project staff, and Federal Programs Office resulted in identification of 7 major program areas: Counseling services, cultural enrichment, bus transportation, academic aid for materials and fees, tutoring, Indian parent involvement, and administration and supportive categories.

In the final progress report, the evaluation methodology is presented with pre-and post-data shown in a very readable form. Parental and student attitudes toward public school and Title IV are shown as definitely favorable. Both in-house and independent agency evaluations were compiled. Of particular interest were the listed recommendations concluding the self-evaluation, which involved students, parents, community and LEA.

It appears that the project staff would be a valuable resource for other Title IV, Part A projects due to the scope of their program and variety of experience with it.



The program evaluation involves a comparison between 1973 and 1974 figures for 1333 Indian students in 4 levels:

289 students in high school	10-12
334 students in junior high	7-9
710 students in elementary	1-6

The Indian drop out rate at the junior high level was decreased by 10.6% over the previous year, compared to the non-Indian drop out rate increase of .3%.

Senior high rates for Indian students increased 2.8% compared to 2.1% for non-Indians. The overall Indian high school drop out rate was 20%, compared to the national Indian drop out rate of approximately 49%.

The Indian attendance rate showed an increase of:

$\frac{1}{2}$ day for grades	1 - 6
1 $\frac{1}{3}$ days for grades	7 - 9
1 day for grades	10 - 12

# A B S T R A C T

TITLE: "Program for Restoration of Lost Tigua Culture" (1167A)

LEA CONTACT PERSON: Mrs. Constance Hulbert, Project Director  
Department of Ethnic Culture Studies  
Ysleta Independent School District  
8445 Valdespino  
El Paso, Texas 79907

PARENT COMMITTEE CHAIRMAN: Mrs. Dora Cedillo  
119 Palla  
El Paso, Texas 79907

FINAL GRANT AWARD: \$11,982.91 (161 Indian children)

## DESCRIPTION OF PROJECT:

A specially trained teacher, knowledgeable in the historic background of the Tiguas, hired to: (1) Coordinate the regular academic instructional program with the proposed project: (2) instruct children in the historic background of the Tiguas: (3) Teach Indian folkloric dancing and singing: (4) accompany the children on field trips and visits to other communities: (5) prepare the students for performances in folk dancing and singing for appearances before local and other communities -- such preparation to include instruction, choreography, costuming and staging of these activities.



# A B S T R A C T

## YSLETA, TEXAS

- (1) Completely costumed 70 in authentic native dress-all hand made.
- (2) All 70 trained in native dance(s) and chants taught by native consultants.
- (3) Field trips to outer world, (i.e., Bank, University, Military base, Chamber of Commerce)
- (4) 20 visited Quozvas in Fortuga, New Mexico
- (5) Publicity for tribe-work closely with tribe (to be featured in Texas magazine.)
- (6) Attendance: previously ran seriously behind

	#1	#2	
'73-'74	12.54	10.5	absenteeism
'74-'75	9.32	5.5*	

\* cut in half

# A B S T R A C T

TITLE: "Aid for Indian Children" (0563A)

LEA CONTACT PERSON: Ms. Lois Driscoll  
Alhambra Elementary School District  
3001 West Hazelwood  
Phoenix, Arizona 85107

PARENT COMMITTEE CHAIRMAN: Mr. Errol Honhoinewa  
3315 West Solano Drive  
Phoenix, Arizona

FINAL GRANT AWARD: \$9,095.98 (112 Indian children)

## DESCRIPTION OF PROJECT:

Indian families of this district are from at least 17 American tribes, with children enrolled and attending at the various schools within the district, possessing little information about each other and the various traditions, heritage, and culture. The project has been instrumental, through public hearings and the Parent Committee in alleviating the isolation through the activities.

A pre- and post- test is given to students who are tutored by a part-time certified teacher. Also, this teacher serves as a coordinator (home-school), becoming acquainted with each Indian child and the parents through at least semester visits with the children and yearly visits with the parents. Documentation and records are kept of the children's circumstances, achievement, and evaluation of progress made. In addition, this resource person "ascertains that all special community programs or services are utilized for the children when appropriate." A special component for grades 7 and 8 is provided in career guidance, and assistance provided for high school registration of 8th graders.



## A B S T R A C T

### ALHAMBRA, ARIZONA

- (1) Each child visited with twice during school year;
- (2) 53 home visits, some multiple;
- (3) Roster Composition & Data Collection on each child
- (4) 15 tutored - 10 tested for reading skills

## A B S T R A C T

TITLE: Improving Curriculum and Activities for Gallup - McKinley County School District Indian Students.

LEA CONTACT PERSON: Mrs. Gloria Carnal, Federal Programs Director  
Ms. Wynema Morris, Title IV Coordinator  
Gallup - McKinley County Public Schools  
P.O. Box 1318  
Gallup, New Mexico 87301

PARENT COMMITTEE CHAIRMAN: Mr. Donald Smith (from Feb. '75)  
Box 295  
Crownpoint, New Mexico 87313  
(previously: Mr. Wilfred Eriacho to Jan. 16, '75)

FINAL GRANT AWARD: \$849,541.88/ 8818 I.C. certified  
8834 Enrolled  
(This was recently audited for 10 weeks on-site by a 5-person team from GAO, and the audit conference showed no exceptions on expenditures)

DESCRIPTION OF PROJECT: This is the largest single school district with a grant with by far the most students scattered throughout schools in the largest area district in the nation-thus, the program has seven major components:

1. Title IV Parent Committee
2. Personalized Instruction for Multi-lingual and Multi-cultural Curriculum
3. Home-School Coordinator Service
4. Mobile Career Education Units
5. Laboratory and/or Activity Approach to the Teaching of Mathematics
6. Pilot Project: Crownpoint High School Awareness, Vocational Work-Study

### PROPOSED EVALUATION:

- 1) By the Committee & school staff to determine how well the objectives have been met.
- 2) Kinds & quality of Materials secured, produced, disseminated; value of in-service sessions, effectiveness of tutoring; total contribution to the Multi-lingual and Multi-cultural aspects of the community; information received by present instructional staff regarding heritage and needs of Native American.

## Proposed Evaluation

- 1) By the Committee and school staff to determine how will the objectives have been met.
- 2) Kinds and quality of materials secured, produced, disseminated; value of in-service sessions; effectiveness of tutoring; total contribution to the multi-lingual and multi-cultural aspects of the community; information received by present instructional staff regarding heritage and needs of native Americans.
- 3) Reports of students, parents, chapter officers and school personnel regarding effectiveness; annual district appraisal and report; measurement of improved school attendance and student achievement;
- 4) Number of students participating in the project; the efficiency of student follow-up and number of vocational scholarships, student reaction to a counselor-developed checklist; evaluation by students, parents and teachers; number of students given extensive aptitude testing.
- 5) Four-step method of evaluation; by Parent Committee; by professional staff; by out-of-district consultants and others in the field of mathematics instruction; by standardized diagnostic and objective-based tests.
- 6) Usefulness, Appearance, Solidarity of shelters; Instructor survey of usefulness of bus shelters as projects.

data available -- yet to be assembled.

A B S T R A C T

TITLE: Improvement - Through Reading and Counseling

LEA CONTACT PERSON:

Don W. Johnston  
Federal Programs Supervisor  
Poplar Elementary School District  
P.O. Box 458  
Poplar, Montana 59255

PARENT COMMITTEE CHAIRMAN:

Ronald Smith  
Poplar, Montana 59255

FINAL GRANT AWARD:

\$45,291.18

DESCRIPTION OF PROJECT:

The Indian Student enrollment at Poplar comprises nearly 80% of the primary and elementary student total. Exhibiting a high degree of cooperation, the Parent Committee and the school planned and operated a program involving three major components, one of which was coordinated with the high school (High School Vocational Counseling.) Frequent Parent Committee Meetings are held.

The remedial reading component was successful as judged by parents, teachers, and the director, and supported by test results. Weaknesses that showed up on the test led to a needs assessment designed to improve this component.

The elementary counseling program showed a degree of progress, but some personnel difficulties were encountered. Evaluation of the affective domain results was subjective to a great degree, involving parental opinion survey instruments and personal comments.

The Project Director reports success in parent involvement, and everyone expresses satisfaction with the successful operation of the program.



## Remedial Reading Program Results

These results were compiled for a program comprized of 420 Indian students.

Pre-tested for small group of 3 to 4 students.

Post-test showed no regression k-6 level.

Many students gained 2 - 6 months over normal gains expected without remedial help.

# A B S T R A C T

TITLE: "Improving Communication Skills" (0611A)

LEA CONTACT PERSON: Patrick Graham, Project Director  
Window Rock Elementary School District #8  
P.O. Box 559  
Ft. Defiance, Arizona 86504

PARENT COMMITTEE CHAIRMAN: Mr. Jim Sam  
P.O. Box 398  
St. Michaels, Arizona 86511

FINAL GRANT AWARD: \$220,415.24 (2714 Indian children)

## DESCRIPTION OF PROJECT:

Development of a Reading Program and instruction of Navajo culture to be included in school's present curriculum, with bilingual education to develop capability in English as a second language (The school district does not have either Right to Read or Bilingual grants).

To improve availability of supplies, materials, and equipment for reading improvement, and in-serve training for implementation.

The program's components are based on each of the four schools within the district (two elementary, one junior high and one high school).

- 1) Cultural awareness and pride in heritage for Indian students.
- 2) Cultural awareness of non-Indian teachers, counselors, and students.
- 3) Improved guidance services for Indian students and parents.
- 4) Increased participation in school activities.
- 5) Remedial services for Indian students.

# A B S T R A C T

## WINDOW ROCK, ARIZONA

### district-wide pre- & post- test:

#### 3rd grade State Required Test:

Reading level - highest of any school on Reservation

½ yr. improvement: 2.3 - 2.6

marked improvement: more increase in past 3 than in 10 previous years.

It is difficult to measure the effects of Bilingual aides



# A B S T R A C T

TITLE: "Indian Education Project

LEA CONTACT PERSON: Cletis D. Satepauhoodle, Director  
Oklahoma Public Schools  
900 N. Klein  
Oklahoma City, Oklahoma 73106

PARENT COMMITTEE CHAIRMAN: Marcellus Williams, Chairman  
3201 North Portland  
Oklahoma City, Oklahoma 73106

FINAL AWARD GRANT: \$182,902.51

NUMBER OF INDIAN STUDENTS: 2,672

## DESCRIPTION OF PROJECT:

The Indian population of Oklahoma City, according to the 1970 census report is 14,000. Analysis of the socio-economic characteristics show that 22.8% of the Indian families of the city have incomes below the established 1970 poverty level. Further analysis shows that a total of 48.8% of the Indian families have incomes below \$6,000.00. Unemployment among the Indian labor force of the state averages 45%. School drop-out rates average 44% state wide and ranges from 25 to 60% in various areas of the state.

High drop-out rates, poor health, poor housing, and low incomes, accompanying the companion elements of frustration, confusion, disunity, lack of organization, district, and social segregation illustrate some of the special problems of Indians in Oklahoma City.

A needs assessment conducted in the 1974-75 school year to determine the priority needs of Indian students, as perceived by the Indian Parent Committee, the public in open hearing, principals, teachers, and Title IV staff, identified the following:

- 1) cultural awareness and pride in heritage for Indian students,
- 2) cultural awareness of non-Indian (teachers, counselors, and students),
- 3) improved guidance services for Indian students and parents,
- 4) activity fees which keep needy Indian students from participating in school activities,
- 5) remedial services for some Indian students.



A survey indicates there are 2,560 Indian students enrolled in the school district.

At the present level of funding for this act, the district is unable to address itself to all of the educational and community needs. Indeed, the problems of urban Indians are so great that we may address ourselves to them in a most minimal fashion.

### Project Goals

- 1) Increase cultural awareness and pride in heritage for Indian students.
- 2) Increase cultural awareness of non-Indians (teachers, counselors, and students).
- 3) Improve guidance services for Indian students and parents.
- 4) Furnish activity fees which keep needy Indian students from participation in school activities.
- 5) Provide remedial services for some Indian students.

Project components objectives are attached as submitted.

# A B S T R A C T

## Muskogee City Schools

TITLE: "Concentration on the Affective Cognitive and Psychomotor Growth of Indian Children"

PARENT COMMITTEE CHAIRMAN: Ms. Esther Holloway, Chairperson  
1612 Hayes  
Muskogee, Oklahoma 74401

LEA CONTACT PERSON: Mr. Frank Boverts Jr.  
Director, Federal Program  
Muskogee City School  
570 North 6th Street  
Muskogee, Oklahoma 74401

FINAL GRANT AWARD: \$66,490.30

NUMBER OF CHILDREN SERVED: 800

### DESCRIPTION OF PROJECT:

Data received from a city wide, District I-20, needs assessment and from specific suggestions from the Muskogee Indian Parent Committee confirm that a program aimed at the affective, cognitive and psychomotor domains are high priority items for meeting the special educational needs of Indian children. These items are as follows:

- 1-Comprehensive counseling program for Indian children,
- 2-Concentrated Health Services.
- 3-An expanded tutoring services to grades 1-6.
- 4-Teacher aides to work in target schools.
- 5-Parental cost for specifically identified purposes.
- 6-Equipment and supplies for tutoring centers.

### Average Grade Equivalent Gains

	<u>Reading</u>	<u>Math</u>
Grade 2	2.0 yrs.	1.6 yrs.
Grade 3	.35 yrs.	.96 yrs.
Grade 4	1.4 yrs.	1.4 yrs.
Grade 5	.9 yrs.	1.6 yrs.
Grade 6	.3 yrs.	.8 yrs.

Greatest Gain	+2.8 yrs	+1.8 yrs.
Least Gain	- .2 yrs	- .5 yrs.

II. Counseling is being well received by the students, parents and school personnel. See the attached report.

In order to give an idea of how many student actually receive assistance of one kind or another from this program, this statistical break-down of several of the most used portions of our counseling and tutoring program for the second quarter of the year, will give a good idea of the total number we work with:

- I. Tutoring
  - a. 36 students per day
  - b. 180 students per week
  - c. 2,160 students per quarter (twelve week period)
- II. Counseling
  - a. individual guidance sessions 115
  - b. group guidance sessions 9  
(ten students per session)
  - c. teacher-parent-student conferences 18
  - d. I.Q. tests administered 11
  - e. achievement tests administered 48
  - f. telephone contacts 84
  - g. parent contacts by letter 103
  - h. teacher conferences 24  
(about Indian Students)
- III. Health Services: include a school nurse, who screens students for illness-sets up student health records and does immunization.
  - a. referred to school nurse 28
  - b. provided transportation for 11  
(medical purposes)
- IV. Working with other social agencies
  - a. youth services 5
  - b. social worker contacts 4

These figures represent average grade equivalent gains made with 150 students receiving tutoring in five sites across the city. Students in kindergarten and grade one were also tutored, but no objective test scores were available. Subjective comments by tutors and aides indicate the tutoring was very beneficial to the students who attended on a regular basis.

LEA CONTACT PERSON: Richard H. Massey  
 Superintendent  
 Tulsa Public Schools  
 P.O. Box 859  
 Tulsa, Oklahoma 74108

PARENT COMMITTEE CHAIRMAN: Charlie Anderson  
 Tulsa, Oklahoma

FINAL GRANT AWARD: \$20,000.00

DESCRIPTION OF PROJECT:  
 This project has three components:  
 1. Tutoring: The Reading and Tutoring Project has been in operation since 1981 and has been successful in providing tutoring for at-risk students. This is an important part of the program. It is important to stay in school, preventing drop-outs and improving reading comprehension. See Chart A.

SALLISAW MIDDLE SCHOOL  
 Gilbert Kelli, Principal  
 1208 E. Creek  
 Sallisaw, Oklahoma 74885

Reading Comprehension	Normal Score	First S. Score	Final S. Score
Y	7.5	6.0	10.5
X	7.5	6.0	10.5
A	6.5	6.7	10.7
B	5.5	6.9	9.4
C	4.5	6.5	7.7
D	3.5	6.9	7.8
E	2.5	6.9	9.8



# A B S T R A C T

TITLE: "Counseling of Tutorial and Health Program for Indian Students."

LEA CONTACT PERSON: Richard H. Moseley  
Supt. of Schools  
Sallisaw Public Schools  
P.O. Box 529  
Sallisaw, Oklahoma 74955

PARENT COMMITTEE CHAIRMAN: Cherie Sanderson  
Sallisaw, Oklahoma 74955

FINAL GRANT AWARD: \$80,088.29

## DESCRIPTION OF PROJECT:

This project has three components:

I. Tutoring: the Reading and Tutorial programs have had the Sallisaw staff attend Northeastern State University for In-Service training programs for all counselors, Tutorial Aids and all other supportive personnel involved with Indian students. This is an important part of the program, as it encourages students to stay in school, preventing drop-outs and improving reading comprehension. See Chart A:

SALLISAW MIDDLE SCHOOL  
Gilbert Asbill, Principal  
1206 E. Creek  
Sallisaw, Oklahoma 74955

<u>Reading Comprehension</u>	<u>Normal Score</u>	<u>First G. Score</u>	<u>Final G. Score</u>
Y	7.2	6.0	10.2
Z	7.8	6.0	10.5
A	8.6	5.7	10.7
B	8.2	5.9	9.4
C	7.0	6.5	7.7
D	7.0	5.9	7.8
E	7.2	5.8	9.6

II. Counseling is being well received by the students, parents, and school personnel.

In order to give an idea of how many students actually receive assistance of one kind or another from this program, this statistical break-down of several of the most used portions of our counseling and tutoring program for the second quarter of the year, will give a good idea of the total number we work with:

- I. Tutoring
  - a. 36 students per day
  - b. 180 students per week
  - c. 2,160 students per quarter (twelve week period)
- II. Counseling
  - a. individual guidance sessions 115
  - b. group guidance sessions 9  
(ten students per session)
  - c. teacher-parent-student conferences 18
  - d. I.Q. tests administered 11
  - e. achievement tests administered 48
  - f. telephone contacts 84
  - g. parent contacts by letter 103
  - h. teacher conferences 24  
(about Indian Students)
- III. Health Services: include a school nurse, who screens students for illness-sets up student health records and does immunization.
  - a. referred to school nurse 28
  - b. provided transportation for (medical purposes) 11
- IV. Working with other social agencies
  - a. youth services 5
  - b. social worker contacts 4

# A B S T R A C T

TITLE: The Syracuse Educational Program to Meet the Special Educational Needs of Native American Students

LEA CONTACT PERSON: Mr. Donald M. Lammers  
Assistant Director, Special Projects  
Syracuse City School District  
910 Erie Boulevard  
Syracuse, New York 13210

PARENT COMMITTEE CHAIRMAN: Mrs. Pamela Alexander  
Chairperson  
Indian Parent Committee  
1055 Westmoreland Avenue

FINAL GRANT AWARD: \$120,793.32

## DESCRIPTION OF PROJECT:

The program serves 619 Indian Students in grades K-12 (city-wide). The program is designed to provide the students with a Native American Information Service and Curriculum Materials Center and Indian languages, history, and culture.

Native American Consultants and Aides are used to work with the students in identifying materials and making use of the Center. Small group sessions and individualized instruction will be provided in addition to classes. Field trips are made in conjunction with the classes to Indian Museums.

Inservice training is provided to the teacher Aides by Indian Consultants and other knowledgeable about Indian languages, culture, etc.

Evaluation has shown that the Center proved to be interesting and informative with teachers bringing whole classes to use it. Visitors from neighboring districts made use of the Center as well as the students in the Title IV, Part A program.

Records indicate that participants receiving information, cultural awareness, language instruction, Native dress, Native dancing, songs, quill-work, jewelry making, basket weaving, and arts and crafts represented participation by 15 schools, with visits to over 300 classrooms. Since over 300 classrooms were visited, this objective was exceeded by 163 visits.

Pre- and Post-test scores show that almost all students made substantial gain in their knowledge of their culture and heritage as a results of the field trips taken.

All objectives of the program were met.

TITLE: Indian Studies Program

LEA CONTACT PERSON: John Coffey, Superintendent  
City and Borough of Juneau 99801  
P.O. Box 608  
Juneau, Alaska

PARENT COMMITTEE CHAIRMAN: Judy Franklin  
R.R. # Box #121  
Juneau, Alaska

DESCRIPTION OF PROJECT:  
This project is a 21-day trip to Alaska's Indian villages and towns. The purpose of the trip is to provide students with a first-hand experience of the rich and diverse Indian culture of Alaska. The trip will include visits to several Indian villages, museums, and historical sites. The trip will also include a variety of activities designed to help students learn about the Indian way of life.

DESCRIPTION OF PROJECT PURPOSE:  
The purpose of this project is to provide students with a first-hand experience of the rich and diverse Indian culture of Alaska. The trip will include visits to several Indian villages, museums, and historical sites. The trip will also include a variety of activities designed to help students learn about the Indian way of life.

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## A B S T R A C T

TITLE: Indian Studies Program

LEA CONTACT PERSON: John Coffee, Superintendent  
City and Borough of Juneau S.D.  
P.O. Box 808  
Douglas, Alaska 99824

Len Sevdy, Director

PARENT COMMITTEE CHAIRMAN: Judy Franklet  
R.R. 4 Box 4191  
Juneau, Alaska

FINAL GRANT AWARD: \$131,670.26

### DESCRIPTION OF PROJECT:

Needs In the elementary level 75% of the Native children enrolled were failing in 1971. In the high school, 60% of all Native children were dropping out of school.

Goals 1) improved ego  
2) improved school performance

Activities Develop a five year plan for Indian education in the Juneau schools based on cultural experiences. This includes carving, beadsewing, dancing and singing, storytelling, history, geography and language of the Tlingets.

Results On the elementary level, Standardized Tests which measure growth in academic areas (reading, oral and written English, math, social studies, etc.) and self image development (pride in work, self-esteem, respect toward authority and peers) showed growth of 1.1 grade levels after the first year of the project (1973-74). Teacher evaluation tests based on objective and subjective criteria which monitored improvement of students showed a 5% gain. An evaluation of students' personal traits based on norms of teachers and the dominant society showed a 5% improvement. In the high school, 77 Native children participated in the program and only one dropped out of school.

## A B S T R A C T

TITLE: Nishnawbe Kenomadewin (Indian Education)

LEA CONTACT: Steven R. Malmberg  
Sault Ste. Marie Area Public Schools  
408 E. Spruce Street  
Sault Ste. Marie, Michigan 49783

PARENT COMMITTEE CHAIRMAN: Mr. Vernon Strecker  
3598 Bermuda

AMOUNT OF FUNDING: \$113,226.31

### DESCRIPTION OF PROJECT:

This project will serve 1,054 Indian students in grades k-12. It is designed to improve the attendance, educational achievement, and drop out rate of the Indian students. Other provisions are also included to promote the understanding of Indian heritage in the school and for developing a line of communications between parents and school personnel.

These objectives will be accomplished by offering a course to deal with the social, cultural, and economic contributions of the American Indian, by hiring two Indian Student Advisors to work in the Junior & Senior High Schools providing guidance and Counseling service; and employing a Home-School Coordinator to establish a liaison between the parents and school. Teacher Aides and a Home-School Visitor will also be assigned to assist the students with academic problems on a one-to-one basis.

This program was successful during the last school year because there was a measurable change of behavior by achieving a higher attendance and school completion rate. One Hundred percent of the Indian parents were contacted and made aware of this and other programs and services offered by the school. Seventy percent of the students participating gained in their educational achievement.

During the 1973-74 program year, this same program was operated successfully. Since the final evaluation for the 1974-75 program has not been received, I am using the evaluation report for the 1973-74 or first year program.

Excluding the major absentees (students in senior high who accumulate 50 or more absences during the school year) participants achieved the proposed attendance rate of 85%. Of 1,038 Indian students in the Sault Area Public Schools, 34 dropped out. This is a 3.3% dropout rate. Hence, 96.7% completed the year in school.

In the elementary segment, 75 contacts were made with various parents; this approximates 3-4 contacts with each receptive parent. There was no contact with three parents.

The 1973-74 report showed that the other components partially exceeded their objectives. Based on the above information and the quarterly reports for the 74-75 program, the success of the 74-75 program was much greater.

LEA CONTACT: Steven B. McIntyre  
Sault Ste. Marie Area Public Schools  
Sault Ste. Marie, Michigan 49783

PARENT COMMITTEE CHAIRMAN: Mr. Vernon Stetson  
3250 Barnuda

AMOUNT OF FUNDING: \$113,326.31

#### DESCRIPTION OF PROJECT:

This project will serve 1,000 Indian students in grades K-12. It is designed to improve the attendance, educational achievement, and drop out rate of the Indian students. Other provisions are also included to promote the understanding of Indian heritage in the school and the developing a line of communication between parents and school personnel.

These objectives will be accomplished by offering a course in social, cultural, and economic contributions of the Indian to the community. Two Indian students will be selected to work in the Indian Center for the purpose of guiding and counseling the students and school personnel. A liaison will be established to assist the students with academic problems on a one-to-one basis.

This program was successful during the last school year. The program was successful in that it achieved a higher attendance and a lower drop out rate. The program was also successful in that it achieved a higher educational achievement. The program was also successful in that it achieved a higher understanding of Indian heritage in the school and the community.

During the 1973-74 program year, the program was successful in that it achieved a higher attendance and a lower drop out rate. The program was also successful in that it achieved a higher educational achievement. The program was also successful in that it achieved a higher understanding of Indian heritage in the school and the community.

## A B S T R A C T

TITLE: Specialized Services for Indian Children & Youth

LEA CONTACT PERSON: Mr. Elmer Collins  
Assistant Program Manager, Comp. Ed. Programs  
Cleveland Public Schools  
1380 East 6th Street, Cleveland, Ohio 44114

PARENT COMMITTEE CHAIRMAN: Mr. Joseph Sampson  
4041 West 140th Street  
Cleveland, Ohio 44135

FINAL GRANT AWARD: \$36,190.38

### DESCRIPTION OF PROJECT:

The program was designed to serve 349 Indian students in grades K-12. It provided Indian students with a number of activities and experiences designed to motivate their thinking and planning. Supportive services in the form of personal and academic counseling as well as individual and small group tutoring were made available. The project undertook to expand the recreational program and motivational club program.

Some of the activities carried out to meet these objectives were: Counseling an career opportunities and planning; home and school liaison services to build communication between families and the school; provision of field trip services and individual visits to colleges, universities, business and recreational activities, training centers, and industrial exhibits; orientation of school personnel to heritage and traditions of Indian Community; and the development of recreational and motivational club program which included amateur theater groups, arts and crafts, Native Culture and languages, education, and athletics or interest are identified by participants.

Evaluation of the program showed that all of the objectives were achieved. The successful operation of the program achieved the following:

1. Contacted 30 eligible students about the Summer Job Program, better known as the Comprehensive Youth Service Program.
2. Identified nine possible Scholarships and grants that could be applied for upon acceptance to a college.
3. There were 43 instances of students of student assistance in areas such as attendance, behavior, grades, and suspensions.



4. A total of 111 contacts were made with the parents and school and 110 visits were made to the home and school regarding school and family problems, jobs, field trips, and a variety of other matters.
5. Tutoring services were provided 40 Indian students. The amount of time spent tutoring each student ranged from daily to once a week.
6. The cultural activities resulted in two speaking engagements at local high schools; three interviews with local and out-of-state people giving information on various aspects of Indian culture and urban life styles; a movie being taped of the program with parents, students, tutors, and Staff involved for a State report, with a follow-up to be taped later.

A field trip was taken to the Seneca Indian Reservation in New York State with 28 in attendance.

7. Work was done with the following agencies to assist parents and students with special problems.
  - a) the Ohio Youth Commission
  - b) Franklin Circle School
  - c) Positive Education Program-St. Colman's Church
  - d) Child Welfare-Social Service Agency
  - e) County Board of Mental Retardation
  - f) Cleveland Hts. School's Special Education

## A B S T R A C T

TITLE: Hugo City Schools  
Grant #0405A - FY '75

LEA CONTACT PERSON: Simon Parker, Superintendent  
208 North Second Street  
Hugo, Oklahoma 74743

PARENT COMMITTEE CHAIRMAN: Charles L. McIntyre  
Goodland Route  
Hugo, Oklahoma 74743

FINAL GRANT AWARD: \$40,523.31

### DESCRIPTION OF PROJECT:

The introduction of an art program for Indian students will supplement and develop the talents already possessed by the students, directing them into artistic talents. The Choctaw Nation Cultural Center is available for their use.

A home-school visitation and tutorial service was rendered which provided a liaison between the school and the Indian community. From this inter-communication, information concerning students can be made available, helping to bridge the gap between the home and the school.

An individual of Indian descent was hired as a counselor in the elementary level primarily to aid the parents in recognizing any problems that may be developing and directing the parents to the appropriate resources for help.

### EVALUATION:

The Indian art students participated in the classes held at the Choctaw Cultural Center where weaving, metal, and bead work is taught, thus increasing the motivation for art in areas in which the school had no equipment. Much interest was shown by students during the pre-enrollment for continuing in the art program.

The self-concept of the students had been noticeably improved, as the result of seeing their accomplishments, developing better relationships between the Indian students, other minorities and non-minorities.

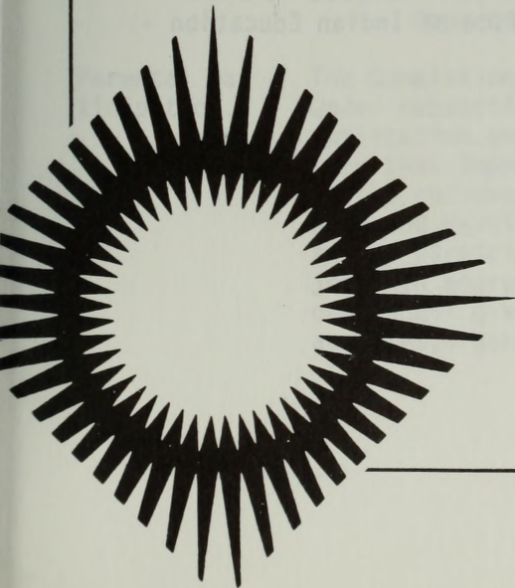
Twenty-one children were given tutorial service twice a week for four months. All showed improvements according to evaluations by their classroom teachers. Before visiting the homes of these children, the Indian home-visitation aide found that during the first semester these students had been absent 168 days and tardy many days when they did attend. After visitation and tutoring, these students were out only 70 days in the semester with no tardies. Attendance is good when cultural pride is evident.

#### EVALUATION

The Indian art students participated in the classes held at the Choctaw Cultural Center where weaving, basketry, and bead work is taught. The increasing motivation for art in areas in which the student had no interest was shown by students during the pre-semester for continuing in the art program.

# **PART II**

## **TOWARD GREATER INDIAN PARENTS COMMITTEES AND TRIBAL INVOLVEMENT IN TITLE IV**





## RECOMMENDATION #7

*The Federal Regulations for Title IV of the Indian Education Act, as published by the Office of Indian Education - H.E.W., be amended to the effect that the Chairperson of all Parents Committees - as legislated in the Act - must be an Indian : And further, that the membership of such Committees be composed of no less than two-thirds Indian membership.*

\*\*\*\*\*

### The Role of Local Parents Committees

Title IV requires the concurrence of local Parents Committees prior to the funding of Title IV proposals. The Act speaks to this point most specifically recognizing that it is fundamental to the original purpose and ultimate success of the Act itself. It is the only local Indian control mechanism that can assure that a predominantly non-Indian Education bureaucracy fulfills the spirit of Title IV and that the educational institutions function with integrity and minimize or eliminate past paternalistic practices.

As the following excerpts from the Title IV Act testify, Congress was well aware of the main obstacles to the success of this legislation when it created the requirement to obtain local Indian community approval of Title IV proposals prior to their being funded by the Office of Indian Education - H.E.W.

## TITLE IV - INDIAN EDUCATION

### SHORT TITLE

Sec. 401. This title may be cited as the "Indian Education Act."

#### Part A--Revision of Impacted Areas Program As It Relates To Indian Children

"(2) provides that the program or project for which application is made--

"(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

"(B) has been developed--

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

#### Part B--Special Programs and Projects To Improve Educational Opportunities for Indian Children

Parental participation. - The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the projects, and that there will be such a participation in the operation and evaluation of the project. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

Part C--Special Programs Relating to Adult Education For  
Indians

Tribal partici-  
pation; Indians,  
priority.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

## Achieving Local Indian Parent Involvement

It would be a fallacy to assume that the expected local parent involvement is now guaranteed. In order for this law to become effective it must be implemented in such a manner that local parents fully understand their authority and responsibility. The Council believes that such is not the case in many instances. It is somewhat difficult to explain unless one has an appreciation for Indians' experience in similar circumstances.

It must be understood that this is a very new and unique role for Indians to enjoy; what is tantamount to "sign-off" authority on a federal program effecting Indians. In the past they have had very little to say about any programs directly effecting them or their community and particularly in the field of Indian Education. When their agreement was required to officially process documents they were requested to do so more as a banker requesting a borrower to sign a note in order to obtain a loan -- if you don't sign it, you won't receive it. Therefore, the Indians whole orientation to the business of signing federal documents has been something of an intimidated recipient: Not too unlike their treaty signing experiences. It is a whole new experience for Indians to come to realize that they are actually a controlling factor in the dispensing of Indian Education program funds. The Council can appreciate that the bureaucracy would rather have the old impression linger with regard to local Indian parents involvement, and for this reason the Council believes it has a vital role to play in bringing about the awareness of local Parents



Committees to the importance and difference of their new constitutional relationship with the federal government in the field of Indian Education- Title IV.

Local Educational Agencies (LEA's - Public School Districts) and Local Parents Committees

There are clear indications to the Council, after reading past and present LEA proposals for Title IV Part A funding, that for the most part LEA's are not utilizing their respective local Parents Committees in helping to prepare the LEA's proposal. Many of the proposals lack substance in dealing with pertinent and urgent Indian Community problems such as, school dropouts, absenteeism, alcoholism and developing motivation.

LEA's should understand, and be directed by the Office of Indian Education, that utilization of local Parents Committees is not only a legislative requirement but is essential to the success of local Indian Education-Part A programs.

It appears to Council members that LEA's are not attempting to obtain Indian Community input: That actual Indian parents of Indian students and Indian students themselves are not being included in the development of the proposals.

It is imperative to the Indian Education Title IV-Part A process that the local Parents Committees do not exist for mere "rubber stamp approval" of the LEA's proposal, but for their being utilized in proposal development, drafting, implementation, monitoring and final evaluation. In short, the

Parents Committee is an excellent organization to help pull resources together and assist in achieving mutually desirable results.

Clearly, there is a natural role for both the Council and the Office of Indian Education to play in helping to sensitize LEA's to this necessary and proper use of local Parents Committees.

Local parent involvement is a visible and essential beginning toward the implementation of the U.S. Government policy of Indian Self-Determination, for Self-Determination will be the main future thrust of American Indian citizenry in this country. The concept and law for Indian Self-Determination is not isolated to Title IV of the Indian Education Act of 1972, although it was a milestone piece of legislation. More recently Congress in 1975 passed the Indian Self-Determination and Education Assistance Act. The opening paragraphs of that Act, included here, are some of the most important federal policy statements ever made for the cause of Indian Self-Determination and further underscore the reality and substance of the nation's support for the Indian's new individualism which is in keeping with the national character that is America:

An Act\*

To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".*

Indian Self-Determination and Education Assistance Act.  
25 USC 450  
note.  
25 USC 450.

CONGRESSIONAL FINDINGS

Sec. 2. (a) The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that -

(1) the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and

(2) the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons.

(b) The Congress further finds that -

(1) true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;

(2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and

(3) parental and community control of the educational process is of crucial importance to the Indian people.

## DECLARATION OF POLICY

Sec. 3. (a) The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities. 25 USC 450a.  
88 STAT. 2203  
88 STAT. 2204

(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(c) The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

\* See appendix for complete text of Indian Self- Determination and Education Assistance Act.



The Council is deeply grateful on behalf of the entire Indian community for the profound impact of these actions by the Congress. As the Congress may recall, the Council has been espousing the importance of this cause and legislation since its own beginning and through its annual reports to the Congress. The adjoining page showing the cover of the Council's report of last year is testimony to the Council's long standing position and efforts to bring about this new era.

It is not as if the Council has just itself become aware of the significance of Parents Committees. In April, 1974 the Council wrote to the then Program Manager of Part A, Title IV - William G. Demmert, Jr. (later to become the Deputy Director of Indian Education) offering the Council's assistance in becoming more involved in Part A of the Indian Education Act of 1972. The heart of Part A throbs on the effectiveness of local Parent Committees in performing their responsibilities as described earlier. Mr. Demmert's response was encouraging and coincided with the Council's concept of the role it could play, as follows:

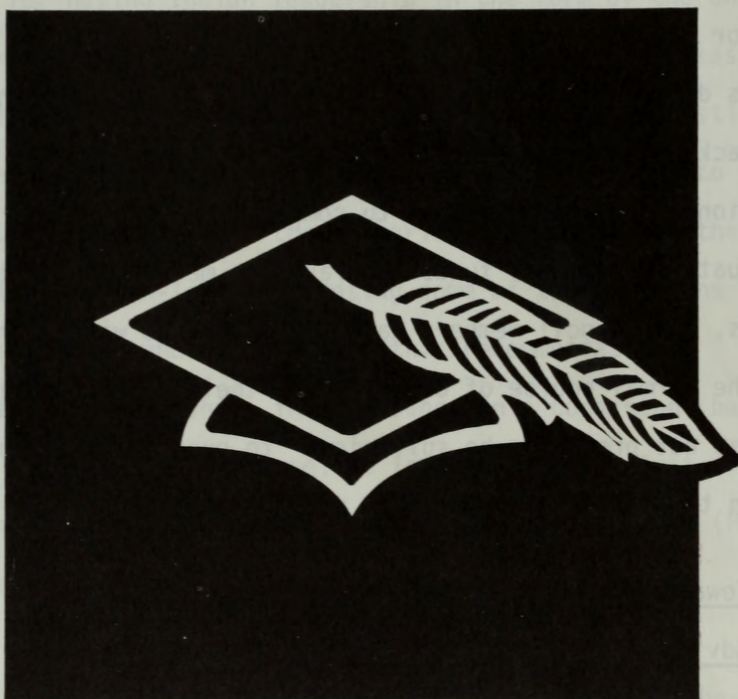
"It seems to me that the most important issues surrounding Part A center on Indian parents' understanding their role, exercising their responsibilities, and having options to consider when designing programs for meeting the special educational needs of their children. In my opinion, NACIE could provide a valuable service by helping Indian communities and parents understand a Parent Advisory Committee's authority and responsibility. It is also important to offer options or examples of exemplary programs for schools to choose from." "Another kind of service and involvement might be to provide assistance

# THROUGH EDUCATION: SELF DETERMINATION

## *A Bicentennial Goal For American Indians*

The Second Annual Report to the Congress of the United States

From the  
National Advisory Council on Indian Education



March 1975

Washington, D.C.

to Indian parent Advisory Committees and schools through helping resolve their differences - through enabling them to jointly resolve the problems of Indian education by improving the quality of programs and increasing the Indian's educational opportunities."

Mr. Demmert's letter elicits the potential and legitimate operational capabilities as well as the advisory responsibilities of the Council to assist the Office of Indian Education in strengthening the local Parents Committees. Unfortunately the Council has always lacked the necessary operational funds to travel to meet with the Parents Committees as would be appropriate to its role and necessary to meet the objectives described in Mr. Demmert's letter. More specifically, NACIE requested an operating budget of \$692,000 for Fiscal Year 1976 and received \$230,000. So as one can see, the Council's desire, need, requests and legislative requirements to perform are not lacking, but the existing budget limitations impose unrealistic limitations upon its abilities to comply.

Lacking adequate operational funds to travel to meet with all the Parents Committees, the Council members have tried to meet with as many as possible during the normal course of carrying out their other Council responsibilities. This has not proven to be sufficient to overcome the problems noted earlier. In the next section of this report entitled,

### PART III - Toward A More Effective Role of the National.

#### Advisory Council on Indian Education,

the Council urges the Congress to fund NACIE on a direct and increased basis

in order to give it the capability to perform its mandated responsibilities such as the interface operational activity described in this section. The Council believes that with examples such as the currently weak effectiveness of Parents Committees, that the Congress will come to realize that the lack of sufficient funding of the Council will cripple the future of Title IV.

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#### Making The Local Parents Committees Effective

It is hoped at this point of PART II of this report, that the sense and importance of RECOMMENDATION # 7 at the beginning of this section is now clear: That the concern for having Indian leadership in the form of the Chairperson, and Indian membership of the Parents Committees composed of at least two-thirds majority, is real. But there are more subtle reasons for requesting this requirement which non-Indians may not necessarily appreciate due to the basic differences in cultural styles and the historical precedence of the relationship between Indian and non-Indians. Noting some of these reasons here will hopefully provide further understanding of this recommendation:

A majority Indian membership, in attendance on a consistent basis, is not only unusual for Indians to experience, it is probably the first time they have been the dominant leadership in a federally legislated body (Parents Committees) since the early treaty negotiations.

\*\*\*\*\*

"Traditional" on-reservation Indians (Traditional in that they have life styles, language, philosophies, etc., that reflect their unique tribal



traditions and heritage) will be most apprehensive of all Indians about attending Parent Committee meetings and it will be essential for them to know that Indian leadership and membership are an ever present reliable force working in their behalf.

\*\*\*\*\*

A major thrust of Title IV is the "grass roots" Indian population which are composed primarily of "traditional" Indians, therefore, the most effective organizational structure should be developed that most accommodates this group.

\*\*\*\*\*

Indians who speak only their tribal language and no English will need interpreters in attendance at PAC meetings. Here again, Indian leadership and a majority Indian membership will relieve the tensions and embarrassment that would normally accompany a typical federal organization meeting with Indians. The dual language posture of the meeting will help bridge a major cultural gap.

\*\*\*\*\*

Historically, most local Indians and tribal people have not believed that their attendance at a local meeting on federal education programs would have any impact on the ultimate outcome of the program. It will require a long period of time for even a Parent Committee as described in RECOMMENDATION # 7 to gain their involvement and confidence, for we are dealing with the prospect of turning around some 100 years of foreign cultural experience.

\*\*\*\*\*

Many Indian parents lack formal Anglo-education. Language and cultural differences may make it difficult for them to relate to the typical discussions of a Parent Committee but through the dominant Indian membership and an available Indian interpreter, their direct involvement in helping to develop local Indian education programs becomes a realistic hope.

\*\*\*\*\*

Indian parents have very often found it difficult to assert their children's needs (thus a need for technical assistance) within the school system. The Parents Committee as described in RECOMMENDATION # 7, becomes a much improved and necessary communication medium to help solve this problem.

\*\*\*\*\*

It is apparent that Title IV is not clearly understood by many Indians, (both reservation and off-reservation). They would be more prone to attend a predominantly Indian membership Parents Committee meeting to receive information where they have the license to exercise their rights (Self-Determination).

\*\*\*\*\*

It is very difficult for the typical school superintendent to accept the concept of "Self-Determination" as many of them do not operate in this fashion with their white constituents.

\*\*\*\*\*

## Some Characteristics Of An Effective Parents Committee

Experience with Indian Parent Committees in general is helpful in providing guidance for the establishment of truly effective local Parents Committee. The following characteristics are considered many of the criteria for the most successful operation of such a Parents Committee:

1. There are some Parents Committees that are all-Indian membership and the LEA representatives, an Indian school board member, and Indian school administrator and teachers are a part of this operating group. Structured in this manner the prospects for success are very good.
2. That the tribal community is fully represented on the Parents Committee ie., all groups and factions, (traditional/progressive, young/old).
3. That were possible the Parents Committee is an official appendage of the official tribal governing body.
4. That Parent Committee members/tribal leaders/officials have assumed the difficult task of sensitizing the non-Indian local school superintendent, education officials and related administration staff on the cultural differences and barriers to understanding.
5. That the membership of the Parents Committee be rotated annually but retaining some members to provide continuity.
6. That they hold regular (quarterly) joint meetings with all parties concerned: Especially with students.
7. That the native language be used as the primary medium. Use interpreter for translation. This quickly keys into the cultural difference.

8. That the Parents Committee provide the public relations for the Title IV "A" project in conjunction with the Title IV Project Director who by all means must be Indian as well as the rest of the staff. The Parents Committee must conduct periodic presentations to tribal and school people to show what they are doing. It is essential that the students are involved in these presentations. Too often such presentations are given only one facet of the total group impacted by the program and interested in what results are achieved.
  9. That Parents Committee meetings be conducted with a blend of Roberts Rules of Order and with their accepted Tribal governance rules.
  10. That the Parents Committee establish liaison lines of communication (phone, correspondence, attendance at local/regional/state/federal (national) conferences, workshops, seminars, etc.) with agencies and organizations that have direct/indirect bearing on Indian education. Specifically: A provision should be made in the Title IV program budget for at least one delegate to attend meetings and be directly responsible and accountable to the Parents Committee and constituents for reporting back on important items.
  11. That the Parents Committee publish a periodic newsletter to keep all parties informed (school officials, tribal officials, parents, students, etc.) In cases where the project/community is too small to warrant publishing a separate newsletter, they can combine efforts with other Title IV projects or use local tribal newspapers or the press in general.
  12. That the Parents Committee take the initiative to educate and to sensitize the non-Indian educators as to the special, unique tribal cultural factors that must be respected and considered in the learning environment for the Indian students.
-



## Direct Federal Funding Of Local Parents Committees

Local Parents Committees should be funded directly by the Office of Indian Education for Title IV Part A funds rather than by the present practice of going first through the administrative control of the Local Educational Agencies (LEA's - Public School Districts) in order to insure the Parents Committees autonomy and eliminate their present beholden relationship the LEA's. This certainly is one of the first steps to the implementation of Self-Determination for local Parents Committees in becoming more independent and representative Indian parents groups and insuring the effectiveness of such organizations and encouraging Indian parents to participate without fear or reprisal.

In the following excerpts from a study completed for the U.S. Office of Education and the Bureau of Indian Affairs on, The Impact Of Federal Funds On Local Education Agencies Enrolling Indian Children (Becoming better known by the title, "So That All Indian Children Will Have Equal Educational Opportunity" - See Appendix), one section in particular develops a very substantive rationale for the direct funding and training of local Indian Parents Committees: A concept that is most heartily endorsed by NACIE. The logic of the rationale culminates in the same conclusion as did the Council in its 1975 Report to Congress when it stated, THROUGH EDUCATION: SELF DETERMINATION.

## Community Participation

Since educational goals cannot be agreed upon, there is no objective criterion for measuring educational effectiveness; one man's expert opinion becomes another man's heresy. We offer the following two propositions as a guide for alleviating this situation.

Proposition 6 - The community, thought of mainly in terms of parents but including students and all other concerned citizens, should be the final judge of educational effectiveness.

Proposition 7 - The community must be able to implement its educational goals and judgements. This requires control, rather than mere advisory status, with regard to curriculum and staff.

Our field work shows that effective PAC functioning leads to a more successful program. It also shows that PAC (Parents Committees) members are often inadequately informed of their own program, are very uninformed regarding other programs, and do not coordinate their activities with other PACs in the district. We conclude that PACs are the key to educational relevance and success, but that they are hampered by inadequate training and a lack of technical assistance. Indian energy in the community is diffused and fragmented rather than focused on common goals. We recommend a single PAC in a district, with existing PACs serving as committees for specific programs.

This would apply to Title IV and JOM at least; for Title I, the committee might serve as a delegation, rather than comprising the entire committee for that program. This single PAC must be adequately funded, so that staff positions can be maintained and so that technical assistance can be purchased. Not only

are PAC members uninformed about their programs, but school staff are frequently uninformed about the role of the PAC. More training must be provided, and funded, at all local levels. PAC members, school staff and LEA staff should have combined training sessions in which all groups learn from each other on an equal basis.

#### Indian Education.

The preceding discussion deals of course with Indian Education, but could be applied with little change to other bi-cultural settings. The Indian situation, however, is unique, and we advance the following propositions as distinctly Indian.

Proposition 8 - Indian Education within the federal structure has evolved primarily as a tool for assimilation and for land divestation. In any terms, Indian or white, this traditional educational system within the BIA and public school structures has failed.

Proposition 9 - Indian Tribes and not states have the primary responsibility for educating Indian children within Tribal jurisdictions.

Proposition 10 - The financing of Indian Education is exercised by the federal government in Tribal jurisdictions in lieu of Tribal fiscal responsibilities not in lieu of state fiscal responsibilities.

Proposition 11 - Federal financial support for Indian Education stems from treaty, moral, legal and practical responsibilities.

Proposition 12 - Indians who have accepted U.S. citizenship have a dual citizenship (Tribal and United States) therefore, within state jurisdictions they enjoy all the rights, duties, privileges

and responsibilities of any other citizen of the state.

A major conclusion which follows from these propositions is that legislation, and the implementation of legislation must take into account the fact of Tribal educational jurisdiction and thus the development of Tribal educational institutions as well as the fact of Indian students in state jurisdictions and thus federal funding to address the special educational needs of such students.

Within the framework of Tribal educational jurisdiction we recommend that federal educational funds be spent primarily for the development of Tribal educational institutions. BIA schools should be returned to Tribal control rather than to state or local educational agencies. Maintaining the existing public educational institutions (state jurisdiction) within Indian Tribal jurisdictions should be an option of Tribes, not a requirement brought about by the BIA policy of termination of Tribal educational jurisdiction.

Within the framework of Indian Education in public schools we can make specific recommendations regarding the three supplemental programs that have been studied.

Title I is not Indian-oriented; should be used as a compensatory program for guaranteeing an adequate basic. Education in the traditional subject matter, i.e., (3 R's).

Title IV is the best structured of the programs we have studied. It is at least as successful as the other two, and is the best vehicle for translating favorable community attitudes toward Indian Education into effective programs. Furthermore, it has only been in existence a short time, so that we conclude



that it is potentially the strongest tool for achieving a good educational system for Indians. Title IV should be used exclusively for Indian-related educational subject matter. It should be strengthened and expanded.

JOM funds are used for virtually every educational and non-educational purpose imaginable. The only consistent finding is that JOM is simply a device to "plug holes" in the educational budget. This extends, at some sites, to the misappropriation of JOM funds toward basic support. JOM should focus on special non-classroom needs and should be primarily used to relieve the socio-economic burdens which prevent an Indian child from attending school. In addition, JOM should be used for non-school based education as determined by the PACs. JOM would be best administered by PACs and should allow considerable flexibility since the needs can only be determined by the PACs themselves.

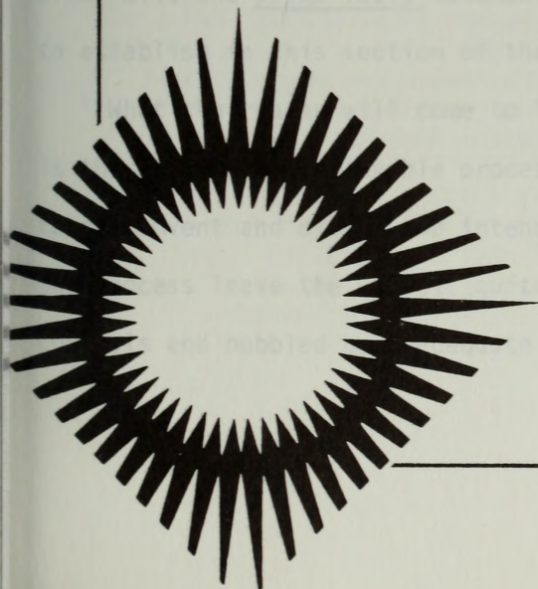
A final point should be made regarding Tribal educational institutions. Education is a major industry; for most Tribal jurisdictions it may well provide more than 50 percent of the inflow of monies. The control of educational dollars leads to financial and political power. Although our study is concerned with education it indirectly is concerned with the socio-economic conditions of the Indian people. We recommend that the development of Indian educational institutions be viewed not only in strictly educational terms, but as a major tool for the economic development and self-sufficiency of Indian Tribes.

Educational content cannot be controlled without control over educational funds. Since we believe that LEA's must be accountable to their communities, we recommend an enforceable by-pass provision for all Indian educational programs. If it can be demonstrated that the LEA is not responsive to the needs of the Indian community, funds should go directly to the unified Parents Committee in the tribal community or government.

\*\*\*\*\*

# **PART III**

## **TOWARD A MORE EFFECTIVE ROLE OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION**



RECOMMENDATION # 8

*That the Congress declare and legislate that the National Advisory Council on Indian Education, representing the unique American Indian segment of our population, is hereby exempt from the provisions of the Federal Advisory Committee Act of 1972, and that the Council's status is hereby restored to that as intended, enacted and described in the original legislative language of the Indian Education Act of 1972.*

*Further, in order to insure the intended autonomy of this Council for the benefit of the American Indian population and the purposes set forth by the Congress, NACIE will be funded directly by the Congress on an annual basis through the normal budgetary processes, and to reinforce the intent of the Congress, the Commissioner of Education - H.E.W. is hereby directed to:*

- \* Understand and utilize the purposes of the Council as the representative voices of Indian Education for American Indian Community.*
- \* Accept this Council's recommendations and advice as valid and essential to the realistic and proper implementation of Indian Education legislation.*
- \* Provide the Congress in the Commissioner's Annual Report, evidence that the Commissioner and his department have utilized the Council's recommendation and advice in a substantive way.*

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At the least, this brief history of NACIE's struggle is important for more than the purposes of this Council's survival: It tells the story of how today's Federal Bureaucracy deems its wisdom to be superior to that of our elected Congress, and of how its flaunted power goes unchallenged -- And therein, lies the greatest revelation of all.

#### The Federal Charter of the National Advisory Council on Indian Education

The Federal Charter that delineates the specific role of NACIE and its federal relationship with the Commissioner of Education - H.E.W., is probably the most important official explanation of the functions of the Council second only to the Title IV - Indian Education legislation itself.

Signed by the Secretary of the U.S. Department of Health, Education & Welfare, the Charter establishes the clear official obligations of the Commissioner of Education and the National Advisory Council on Indian Education. For this reason the Council wishes to emphasize that to the Indian Community this Charter represents the primary explanation of the agreement between the respective parties.

Because of its significant importance, the Charter is included here in its entirety to both inform and prepare the reader for the basis of the recommendations and relevant narratives that follow since the Charter is, after all, the prima facie document in the position that the Council attempts to establish in this section of the report.

What the reader will come to learn as he reads this part of the report is the somewhat unbelievable process by which the Federal Agencies contrive to circumvent and dilute the intended effectiveness of such a Charter and in the process leave the Council quite burdened by federal administrative controls and hobbled by inadequate budgets.





## C H A R T E R

### National Advisory Council on Indian Education

#### PURPOSE

Title IV, Section 441(a) of the Education Amendments of 1972 (P.L. 92-318), charges the Commissioner of Education with responsibility for carrying out:

1. a program of financial assistance to local and non-local educational agencies for the special educational needs of Indian children as authorized by Title III of the Act of September 30, 1950 (P.L. 81-874) as added by Title IV, Part A, of P.L. 92-318;
2. a program of financial assistance for the improvement of educational opportunities for Indian children as authorized by Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 (P.L. 89-10) as added by Title IV, Part B, of P.L. 92-318;
3. a program of financial assistance to institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs as authorized by Section 422(a) of the Indian Education Act as added by Title VI, Part C, of the Education Amendments of 1974 (P.L. 93-380);
4. a program of financial assistance to Indian students to enable them to pursue a course of study leading toward a professional or graduate

degree in engineering, medicine, law, business, forestry and related fields as authorized by Section 423(a) of the Indian Education Act as added by Title VI, Part C, of the Education Amendments of 1974 (P.L. 93-380); and

5. a program of financial assistance for the improvement of educational opportunities for adult Indians as authorized by Section 314, Title III of the Elementary and Secondary Education Amendments of 1966 (P.L. 89-750), as added by Title IV, Part C, of P.L. 92-318.

Effective discharge of this responsibility requires the advice of the National Advisory Council on Indian Education.

#### AUTHORITY

Title IV, Section 442 of the Education Amendments of 1972 (P.L. 92-318). The Council is governed by the provisions of Part D of the General Education Provisions Act (P.L. 90-247 as amended; 20 U.S.C. 1233a, et seq.) and of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees.

#### FUNCTIONS

The Council shall advise the President, the Congress, the Secretary of HEW, the Assistant Secretary for Education and the Commissioner of Education with regard to programs benefiting Indian children and adults. More specifically, the Council shall:

1. submit to the Commissioner a list of nominees for the position of Deputy Commissioner of Indian Education;
2. advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (P.L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by

Title IV of P.L. 92-318), and with respect to adequate funding thereof;

3. review applications for assistance under Title III of the Act of September 30, 1950 (P.L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 and Section 314 of the Adult Education Act (as added by Title IV of P.L. 92-318), and make recommendations to the Commissioner with respect to their approval;
4. evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;
5. provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;
6. assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (P.L. 81-874) as added by Title IV, Part A, of P.L. 92-318; and
7. submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

#### STRUCTURE

The Council shall consist of 15 members, including a chairman, who are Indians and Alaska Natives appointed by the President. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes

and organizations, and shall represent diverse geographic areas of the country. Terms of membership on the Council shall not exceed three years and shall in the case of initial appointments be staggered. Terms of membership shall be contingent upon the renewal of the Council by appropriate action prior to its expiration.

Provision of administrative services shall be the responsibility of the Deputy Commissioner for Management. The Deputy Commissioner of Indian Education serves as the Office of Education Program Delegate to the Council.

The Council is authorized to appoint, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable it to carry out its operations as prescribed by law. The Council is authorized to contract with any public or private non-profit agency, institution, or organization for assistance in carrying out its functions.

#### MEETINGS

The Council shall meet at the call of the Chairperson, but not less than two times per year.

Meetings shall be open to the public except as may be determined otherwise by the Commissioner of Education; notice of all meetings shall be given in advance to the public. Meetings shall be conducted and records of proceedings kept in accordance with applicable laws and Departmental regulations.

#### COMPENSATION

Members of the Council who are not full-time employees of the Federal Government shall be entitled to receive compensation at a rate of \$100 per day plus per diem and travel expenses in accordance with Standard Government Travel Regulations.

#### ANNUAL COST ESTIMATES

Estimated annual cost for operating the Council, including compensation and travel expenses but excluding staff support, is \$150,000. Estimate of annual manyears of staff support required is 4.5, at an estimated annual cost of \$80,000.



## REPORTS

The Council shall submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs. This report shall include, as a minimum, a list of Council members and their business addresses, the dates and places of Council meetings held during the year, the functions of the Council, and a summary of Council activities and recommendations made during the year. The Council's annual report shall also be transmitted with the Commissioner's Annual Report to Congress on March 31.

A copy of the Council's annual report shall be sent to the Department and Office of Education Committee Management Officers and to the Office of Indian Education. A copy of any other report shall be sent to the Office of Education Committee Management Officer and the Office of Indian Education.

## TERMINATION DATE

Unless renewed by appropriate action prior to its expiration, the National Advisory Council on Indian Education will terminate on July 1, 1978.

APPROVED:

MAR 3 1975  
DATE

  
SECRETARY

## The Need For Further Clarification

Federal legislation, as with all legislation, is by necessity general in terminology and comprehensive in scope, in order to allow for flexibilities and refinement in the administration or execution of such legislation at agency levels.

For the Indian communities this flexibility and the general nature of the legislation designed to address their needs, have worked to their disadvantage. The disadvantage stems from the failure of the federal agencies to take into account the unique nature of Indian communities which requires a more specialized approach in terms of program activities and the promulgation of rules and regulations.

The programs under Title IV are no exception in spite of the Advisory Council that advises the U.S. Office of Education on Indian Education. It has been the council's experience that the U.S. Office of Education is bound by other rules and regulations that affect all of its programs, including the programs for the Indian people. For example, the U.S. Civil Service regulations limit and define all personnel under federal programs. The Federal Advisory Committee Act restricts the scope of authority for the Federal Advisory Committees further limiting their advisory roles. The procedural requirement involved in the conduct and even scheduling of council meetings as well as categorizing all council members as federal employees limits their scope of activities and works to the detriment of legislation, which in the first place was to address specific needs with special attention.

The net result is, instead of bringing fresh and innovative ideas into the federal agencies in order to make them more responsive to the citizens, the

agencies have absorbed the Advisory Council into their bureaucracy in such a way that the original intent of Congress and the public is lost in the procedure, rules and regulations of these agencies. The inevitable consequence is that the federal agencies now dictate the terms to the Advisory Council instead of vice versa as was originally intended.

What is needed to correct this situation is for Congress to further clarify the roles of Advisory Councils and in the case of Indian Advisory Council, more autonomy and less restrictions are needed if meaningful Indian input and involvement are to be achieved.

This necessity was clearly pointed out in a recent study conducted by the U.S. Office of Education and the Bureau of Indian Affairs (1) in which one of the recommendations was for Congress to enact an Indian Education Omnibus Act. This act would clarify and not replace existing legislation. Such legislation, according to this report would not only address program needs but more importantly, it would address the issue of eligibility of the various institutional structure such as the federal schools (BIA), the public schools (LEA), and tribal or community schools.

The Congressional intent of the law was greater Indian involvement in the planning and development of educational programs that affect them, yet under the present circumstances, this is not happening. To reverse this trend, the federal agencies, because of existing rules, regulations and procedural requirements, are either duty bound or at a loss to correct this and it is up to Congress to clarify the impasse.

Currently the Congress has authorized and created a Federal Policy Review Commission to look into all federal programs to determine their usefulness and effectiveness. The National Advisory Council feels this Com-

(1) "So That All Indian Children Will Have Equal Educational Opportunity"  
See Appendix for complete text of this study.

mission can be the vehicle to correct some of these deficiencies that the National Advisory Council has experienced in the area of Indian Education.

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### NACIE's Struggle For Survival

The National Advisory Council on Indian Education was created under Title IV of the Indian Education Act of 1972. Congress legislated its purpose and provided that all fifteen members of the Council be appointed by the President, and further, that all the members be American Indians. This is unique in the history of the United States and for that reason Indians are sensitive to any effort that attempts to alter or tamper with the spirit and the proper interpretation of this law.

Since 1972 a succession of policy directives have come forth from the Executive Branch which have virtually voided the intended autonomy of the Council. The problem commenced when the decision was made to include the Council in the meaning of the Federal Advisory Committee Act of 1972. It appears that the bureaucracy seized upon this Act and a series of implementing Executive Branch directives to establish administrative controls over the Council, and in the process, minimize the Council's effectiveness to provide the Congressionally intended overview of the very bureaucracy involved in the ploy to gain control of the Council's activities. The process happened over many months, and in such elaborate bureaucratic detail, that it is difficult to piece together the steps involved in the planned erosion of the Council's Congressional mandate. For those members of the Congress and their staffs who are genuinely alarmed and frustrated by the uncontrolled and contradictory actions of the federal bureaucracy, the Council's brief history



will provide an excellent case for study if only to provide enlightenment on the formidability and seriousness of the problem.

### Background

In order to restore the Council's intended autonomy, the Federal Advisory Committee Act must be amended. The Council has found that

- (1) The Office of Management and Budget,
- (2) The Comptroller General of the United States, and
- (3) the Office of Education - H.E.W.,

in the process of implementing the Act's agency operating control mechanisms upon Advisory Committees in general, destroyed Congress' intended autonomy of this Council causing it to become relatively incapable of performing its legislative functions and also subjugated the Council to the bureaucracy. (1)

The actions taken by the O.M.B., the Comptroller General, and the Office of Education, have caused NACIE to lose virtually all of its authority and performance capability specifically intended by the Congress when the Indian Education Act of 1972 was enacted. The Council is advising the Congress, with considerable alarm, that the Executive Branch has attached a cabal of regulations and directives to the noted Congressional legislation which undermines the will of Congress. Such actions appear to be intentional in nature and in basic violation of the authority and responsibility of the Congress.

The American Indian Community will not accept the bureaucracy as a substitute for this Council - a Congressionally constituted and Presidentially appointed body - in order that the bureaucracy can perpetuate its control over Indian Education.

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- (1) See Appendix for the complete text of the Federal Advisory Committee Act, and the official related federal documents.

*The Office of Education - H.E.W. should begin to recognize the legislated functions of NACIE and utilize the expertise available in both its members and staff to assist the Office of Indian Education in solving its many program problems.*

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The need to clarify existing Indian Education legislation is obvious to all who are involved with the problems of implementation of current programs. The American Indian Community is grateful for the major milestone accomplishments of Congressional Acts, but now time has allowed much experience to accumulate and the Council has become aware that several program abuses and distortions have taken place in the funding of Title IV and strong corrective action is required.

Existing Title IV legislation is unfortunately mute on the specific criteria for the funding of Title IV Indian Education proposals. This problem prevails throughout all U.S. Indian Education legislation. Thus, lacking official guidance, the Agencies responsible for the administration of these programs develop their own criteria. This is understandable and the Council would have no quarrel with the Office of Education in accomplishing this necessary basis for judgement if the Office of Education had included the Council in its deliberations. What more obvious source should they turn to than the National Advisory Council on Indian Education? Especially since the Council's Congressional mandate specifically establishes this as one of its functions: "The National Council shall - (1) advise the Commissioner of

Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 - Public Law 874, Eighty-first Congress), as added by this Act, and section 810, Title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof; "(5) assist the Commissioner in developing Criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress)."

This behavior pattern on the part of the Office of Education and its subordinate Office of Indian Education to continually ignore the existence of NACIE has been articulated in the Council's two previous annual reports to the Congress. The Council pleads the problem again in its continuing effort to firmly establish a credible and clear working relationship between the Council and these Offices.

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RECOMMENDATION # 10

*That Congress require the U.S. Office of Education - H.E.W. to implement the requirements of the "Indian preference" laws by employing many more Indians in all of its Indian related programs.*

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The precedent for preferential treatment in the hiring of Indians for training and employment opportunities in the field of Indian Education is well established. The Council believes that although the Office of Education is well aware of the Federal laws pertaining to these requirements, it has adroitly circumvented them wherever possible in order to perpetuate its previous hiring policies, which in the main were non-Indian.

The Council's long and agonizing experience in winning the battle for the appointment of Dr. William Demmert (Klingit-Sioux) to the position of Deputy Commissioner of Indian Education is the classic case in point. The never-ending obstructive tactics by the Office of Education and the Civil Service Commission to defeat this appointment approach scandal proportions. But in the end, the Council's perseverance prevailed.

The law in this area is clear and specific: "Any contract, subcontract, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible; (1) preferences and opportunities for training and employment in connection with administration of such contracts



or grants shall be given to Indians". (Indian Self-Determination and Education Assistance Act P.L. 93-638, January 4, 1975 - Sec. 7 (b).....(Foot-note #1)

In the following letter of October 1975, the Council advised the U.S. Commissioner of Education of the Council's continuing concern about the lack of visible evidence that the Office of Education and the Office of Indian Education were complying with this law:

(1) See Appendix: Indian Self-Determination And Education Assistance Act, January 4, 1975 - S.1017.

# NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PENNSYLVANIA BUILDING, SUITE 326

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WASHINGTON, D.C. 20004

## COUNCIL MEMBERS:

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Ramah, New Mexico — Lumbee

## STAFF:

LINCOLN C. WHITE  
Executive Director

DORRANCE D. STEELE  
Asst. Executive Director

October 2, 1975

Dr. T. H. Bell, Commissioner  
U.S. Office of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Dr. Bell:

Our National Advisory Council on Indian Education strongly recommends that the employment policies and practices of the Office of Indian Education be so directed that qualified American Indians and Alaska Natives be given preferences in all initial hirings, promotions, lateral transfers, reassignments and other personnel movement including filling vacancies.

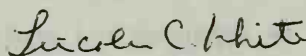
This preferential treatment is deemed necessary to assure that our federally sponsored educational programs and activities are being implemented, supervised and monitored by people who are aware and sensitive to the special needs that our culturally different Native Americans represent.

We urge that you give this request immediate consideration. We are certain that Dr. William Demmert, Deputy Commissioner, Office of Indian Education and colleagues will appreciate your support.

Our Council is aware that tribal people throughout the nation desire that our qualified people be placed in responsible leadership positions.

I will be glad to provide additional information concerning this topic at your convenience.

Sincerely yours,

  
Lincoln C. White  
Executive Director

## Equal Employment Opportunities For Indian People

The federal policy which recognizes the right of Indian people to have preference over non-Indians in employment in federal programs that affects them is a moral right won by Indian people over a long struggle in seeking true justice. The federal courts have upheld and protected this right of the First Americans and any attempts to dilute this law is opposed by the Indian people everywhere.(1)

The assault on Indian preference is made on the following grounds; (1) Constitution (The Equal Protection Clause), (2) the U.S. Civil Rights Act of 1964 (Discrimination). The argument under the equal protection clause is that everyone has an equal right to be hired under a federally funded program. This argument does not take into account that Indian preference was not designed to exclude non-Indians but rather to open up opportunities to the Indian people who have been pretty much excluded from such hiring by the agencies that have Indian programs. The argument against the Indian preference would be more substantive had it applied to all federal programs regardless of whether or not such programs have any effect on the Indian people.

The opposition to the Indian preference under the Civil Rights Act is based on a misconception of the policy. The attempt to categorize Indian preference as a racial discrimination is a misunderstanding of the intent of the policy. Indian preference should not be interpreted from a racial point of view. The purpose of Indian preference is to allow for Indian cultural heritage to be enhanced and protected by having Indian Personnel in those

(1) See Appendix - Indian Self-Determination and Education Assistance Act, Section 7.

programs that affect Indian people. In other words, if the sensitivity and respect for Indian Culture is to be ensured, then Indian preference is essential to encourage Indian hirings for the positions that are available in those programs designed for the benefit of the Indian people.

The point to be made here is that in spite of the court decisions in favor of Indian preference, many federal agencies, either deliberately or out of fear, refuse to implement Indian preference in their personnel policy.

Notwithstanding the legality of Indian preference, many federal agencies continue to abrogate this policy by various means and tactics. For example, one excuse to avoid Indian preference is that Indians are not qualified or that NO Indians have applied. This means notice for positions was either not adequately publicized or the Indians' qualifications in terms of his bilingual or knowledge of Indian culture is not taken into consideration.

Other considerations such as lack of housing, transportation and other facilities are used for not hiring Indians. The issue here then becomes one of advocacy. Instead of concerted efforts to locate and identify Indians for available positions, there is the tendency on the part of federal agencies not to take the necessary initiative in recruiting Indian personnel. More direct oppositions are the rules and regulations that restrict or prohibit Indian hiring within the agencies.

This is certainly true within the U.S. Office of Education, where Indians are often used to defeat the funding or development of policies and programs. For example, the practice of hiring a token Indian whose

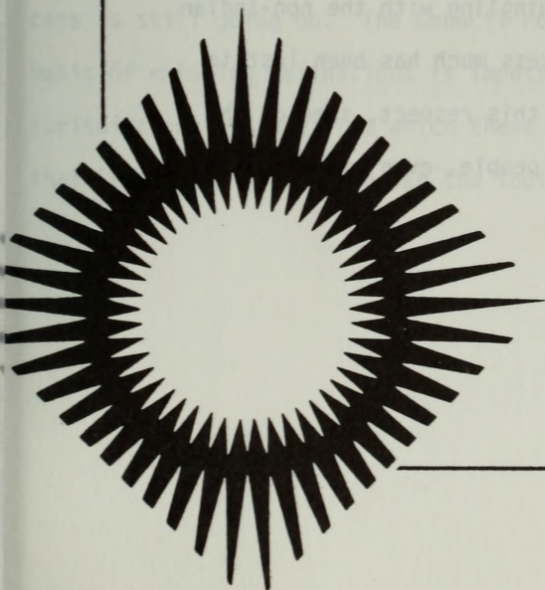


views and outlook of Indians are negative; therefore the policies and personnel he develops will be counter to the views and the wishes of the Indian people.

Unless and until the Congress forces these agencies to accept and implement Indian preference as part of their internal policy, then Indian preference will continue to be a mockery of Congressional intent and court decisions and will continue to be viewed as meaningless by the Indian communities.

# **PART IV**

## **DEFINITION OF AN AMERICAN INDIAN TITLE IV - THE INDIAN EDUCATION ACT OF 1972**



#### PART IV - DEFINITION OF AN AMERICAN INDIAN

The call for a clearer definition of "Who is an American Indian?" has been increasing and more persistent in recent years as a result of several factors. One of these is an increase in the number of federal programs designed to benefit the original inhabitants of this land. As more programs became available, the natural tendency to qualify for such programs followed, resulting in more groups and individuals applying for benefits that were not there before.

Another factor is that as more government agencies assumed the responsibilities for providing the needs of a large segment of the population with a low income or high unemployment status, most American Indians became the constituency of these programs, thus federal programs specifically designed for Indians became less distinguishable from other social programs. As Indians became the beneficiaries of several federal programs, the question of duplication, accountability, eligibility and definition were frequently raised by Congress, federal agencies, policy makers and even by Indian people themselves. Under these circumstances, the issue of "Who is an American Indian" became one of an economic issue since the basis for these considerations is one of economic well-being and security.

But a more subtle issue of the "Who is an American Indian" question has to do with Tribal identity, in terms of Tribal membership and cultural heritage. This latter situation is very crucial, perhaps not with respect to the federal programs, but with respect to the future of the Indian people as an ethnic group.

Much change has taken place among Indian people in terms of their cultural identity and the physical makeup as a result of intermingling with the non-Indian world as well as among different tribes. In this process much has been lost in terms of Tribal language, traditions and customs. In this respect, some of the very qualities that separate Indian people from other people, even among different tribes, are no longer available to some tribes.



Another factor that has modified the status of Indian people is the population shift of Indian people from reservations or rural settings to the urban areas which further complicates the issue of needs and the order of priorities. This geographical shift also effects the Trust relationship for those tribes that were placed on Trust lands and have established their Tribal government. Indian people should be assisted regardless of wherever they reside, but by the same token any government programs or policies that encourage Indian people to abandon their traditional geographical setting by means of economic consideration should not be implemented without the consensus of the Tribe or group involved.

The critical issue then becomes one of protecting the Indian people by means of facilitating their rights to retain their cultural heritages, and therefore, a proper balance should be sought between a narrow definition and a broad definition. Indian people as a minority ethnic group in American society need protection from the forces of assimilation whose definitions are either too broad and too vague, or by too restrictive language, definitions that would diffuse Indian identity on the one hand and would leave out a large segment of the Indian people on the other.

The National Advisory Council on Indian Education has had serious concerns about the present vague and often conflicting status of the definition of Indian with respect to Tribal identity and Indian heritage. The current situation of federal and state laws, court decisions and administrative policies are inadequate because in most cases such classifications were established without the input or consent of the Indian people. The Council, in its effort to eliminate the ambiguity in this area, has consulted with many tribal groups and organizations and this process is still going on. The Council recognizes that to devise a definition on the basis of existing definitions is impossible because of conflicts and the different jurisdictional levels from which these definitions were derived. Any definition that is devised to distinguish the Indian people from other people should be done



on the basis of ethnic qualities that characterize the Indian people. Some of these qualities are (1) language, (2) blood quantum, (3) a viable culture heritage (clans, arts & crafts, ceremonies, etc.), (4) a viable or direct linkage to an historic tribal past, and (5) any other factors that clearly establishes an ethnic heritage that is unique to the original inhabitants of this continent.

With respect to TITLE IV of P.L. 92-318, The Indian Education Act of 1972, the following definition is now present law:

#### DEFINITION

"Indian."            Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band or other organized group of Indians, including those tribes, band, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian".

The Council, after working with the above definitions for three years, believes that two changes should be made in the language of this present definition, as follows:

The words with respect to state recognition (#1 of Title IV definition) "or in the future", should be deleted because this language allows for other groups or individuals to be recognized as Indians by the state in the future and the Council believes this is not necessary.

Again in #1, with respect to the words "who is a descendant, in the first or second degree", the words "or second" should be deleted because this makes the definition unnecessarily too broad and ambiguous.

Therefore, with these changes the Title IV definition would read as follows -

"Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now by the State in which they reside, or who is a descendant, in the first degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

It is the Council's experience that the subject of defining "Who is an American Indian" is a very emotional issue among the Indian people and the Council believes that any definition that does not take generic criteria into consideration would not satisfy all Indian tribes. Nevertheless, the Council believes that the present conflicting and ambiguous state of existing definitions requires clarification. While the Council does not have the legal authority to legislate a definition of its own, the Council believes that the Indian tribes and Congress should seriously take up this matter in a way that will not be divisive but rather embrace those who, by their culture and customs, are indeed distinct members or descendants of those groups, Tribes or individuals whose ancestors were the original inhabitants of this land before it became dominated by non-Indians.

Failure to come up with an acceptable and workable definition soon, will lead to more confusion and discord among the Indian communities to a point that serious division would threaten the very heritage that the Indian people are trying so hard to preserve for present and future generations.

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To begin the process of obtaining as wide a spectrum of Indian opinion as possible to assist in the writing of this "Definition", Council Chairman Theodore George wrote to the Officials of Governing Bodies of Federally Recognized Indian Groups soliciting their assistance in this matter. Chairman George's letter and the responses received to date of publication are in the Appendix Section of this report.

Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, (2) is a descendant of such a group, or (3) is a descendant of such a group who is a descendant of such a group in the first degree, or any such member, as (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Indian or Alaska Native, or (4) is determined by the Secretary to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Indian Council on Indian Education, which regulations shall further define the term "Indian."

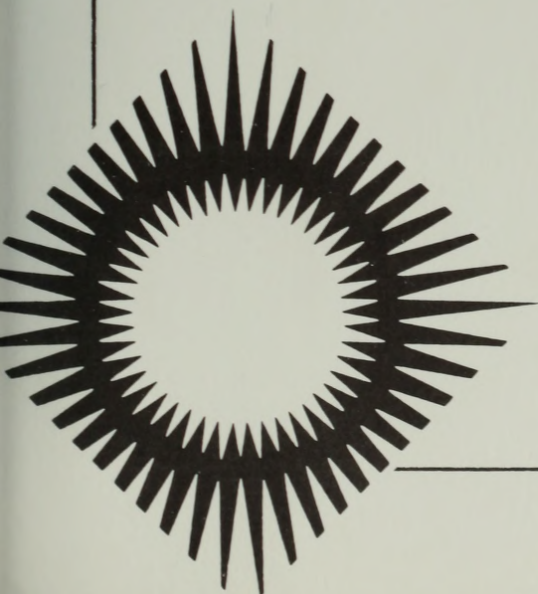
It is the Council's experience that the subject of defining "who is an American Indian" is a very emotional issue among the Indian people and the Council believes that any definition that does not take generic criteria into consideration would not satisfy the Indian tribes. Nevertheless, the Council believes that the present conflicting and ambiguous state of existing definitions requires clarification. While the Council does not have the legal authority to legislate a definition of its own, the Council believes that the Indian tribes and Congress should seriously consider this matter in a way that will not be divisive but rather, recognize those who, by their culture and customs, are indeed distinct members of the tribes of those groups, tribes or individuals whose ancestors were the original inhabitants of this land before it became dominated by non-Indians. Failure to come up with an acceptable and workable definition soon will lead to more confusion and discord among the Indian communities to a point that serious division would threaten the very heritage that the Indian people are struggling to preserve for present and future generations.

To begin the process of obtaining as wide a spectrum of Indian opinion as possible to assist in the writing of this "Definition," Council Chairman George wrote to the Officials of Governing Bodies of Federally Recognized Indian Groups soliciting their assistance in this matter. Chairman George's letter and the responses received to date of publication are in the Appendix section of this report.



# **PART U**

## **NACIE RECOMMENDATIONS AND RESOLUTIONS FOR THE YEAR 1975**





PROBLEM:

Even with the enactment of the Title IV Indian Education Act and the national policy of Self Determination for American Indians, the Offices of Education and Indian Education are still administering Indian Education Programs in the "old ways".

RECOMMENDATION #1 - (Report text page 18 )

*The U.S. Office of Education through its Office of Indian Education must more fully understand the necessity and meaning of Indian Education. This understanding must be more fully reflected in the kinds and quality of Title IV programs that are funded. The constant drift toward more red tape and restrictions must be reversed in order to give Indians greater opportunities and control over their own Affairs in the true spirit of Self Determination.*

PROBLEM:

The present Title IV level of funding of \$55 million is far short of the full funding level of \$519 million authorized by Congress, and in turn, the needed results will fall short of the legislated Indian Education goals.

RECOMMENDATION #2 - (Report text page 29)

*Title IV of the Indian Education Act must be fully funded in order to effectively meet the unfulfilled needs and expectations of this Act. The present funding level of \$55 million is far short of the full funding level of \$519,750,000 authorized by Congress.*

\*\*\*\*\*



PROBLEM:

Since American Indians were first disenfranchised of their basic rights as individuals by the U.S. Government they have slowly recovered those rights as the nation has matured in its wisdom. But in order to close the great time gap between the Indian people and the majority of U.S. citizens, special education must be provided since the typical public schooling process is not designed to this need of Indian people.

RECOMMENDATION #3 - (Report text page 36)

*Congress must continue to emphasize the special educational needs of American Indians by allowing for greater Indian participation, direction and control over programs designed to make them more self-sufficient citizens.*

\*\*\*\*\*

PROBLEM:

The Council has reason to believe that the American Indian Policy Review Commission Task Force's forthcoming report on Indian Education is being improperly developed and will not reflect the actual concerns and needs of the entire Indian Community.

RECOMMENDATION #4 - (Report text page 42 )

*That the National Advisory Council on Indian Education be requested by the Congress to testify on the final report of the American Indian Policy Review Commission Task Force Report on Indian Education in order to insure that the report reflects the balanced perspective of the Indian Community at-large.*

\*\*\*\*\*



PROBLEM:

There is a fear on the part of the Indian Community that the Federal government is attempting to relinquish its Federal responsibility to provide education to American Indians through a policy of block grants to States to become the dispenser and administrator of Title IV program funds.

RECOMMENDATION #5 - (Report text page 46)

*That the present national policy of direct Federal funding to Indian tribes, Indian organizations and Local Education Authorities for the purposes of Indian Education - be expanded, and that any attempt to initiate a policy of block grants to States for Title IV of the Indian Education Act of 1972, be avoided.*

\*\*\*\*\*

PROBLEM:

Historically it has been very difficult for Indians to obtain Post Secondary education due primarily to (1) the lack of adequate monies to attend institutions of higher learning, and (2) non-Indian colleges and universities do not have sufficient programs and curriculum to meet their special cultural needs.

RECOMMENDATION #6 - (Report text page 64 )

*That Congress give priority to the post-secondary needs of all American Indian and Alaskan Natives as recognition to this crucial necessity in meeting the challenge of Self Determination.*

\*\*\*\*\*



PROBLEM:

The majority of Local Parents Committees created by the Indian Education Act of 1972 are not now functionally effectively as the representative voice of the Indian community because majority control has been withheld from them by Local Educational Agencies (LEA's). The organization of these Parents Committees must be intentionally structured to insure a dominant Indian influence in order to overcome this barrier to Self Determination.

RECOMMENDATION #7 - (Report text page 100 )

*The Federal Regulations for Title IV of the Indian Education Act, as published by the Office of Indian Education - H.E.W., be amended to the effect that the Chairperson of all Parents Committees - as legislated in the Act - must be an Indian: And further, that the membership of such Committees be composed of no less than two-thirds Indian membership.*

\*\*\*\*\*

PROBLEM:

Since the Council's Congressionally created beginning, the bureaucracy - at its highest levels - has relentlessly pursued a policy to neutralize the effectiveness of NACIE by bringing it under ever-tightening federal administrative controls, primarily through the control of the Council's budget and personnel. It is clear that the ultimate goal of the bureaucracy is the elimination of NACIE as an independent Indian voice speaking on behalf of Indian Education: The specific reason for the creation of NACIE by Congress in the first place.

RECOMMENDATION #8 - (Report text page 122 )

*That the Congress declare and legislate that the National Advisory Council on Indian Education, representing the unique American Indian segment of our population, is hereby exempt from the provisions of the Federal Advisory Committee Act of 1972, and that the Council's status is hereby restored to that as intended, enacted and described in the original legislative language of the Indian Education Act of 1972.*

*Further, in order to insure the intended autonomy of this Council for the benefit of the American Indian population and the purposes set forth by the Congress, NACIE will be funded directly by the Congress on an annual basis through the normal budgetary processes, and to reinforce the intent of the Congress, the Commissioner of Education - H.E.W. is hereby directed to;*

- \* Understand and utilize the purposes of the Council as the representative voices of Indian Education for the American Indian Community.*
- \* Accept this Council's recommendations and advice as valid and essential to the realistic and proper implementation of Indian Education legislation.*
- \* Provide the Congress in the Commissioner's Annual Report, evidence that the Commissioner and his department have utilized the Council's recommendation and advice in a substantive way.*



PROBLEM:

The lack of more specific Title IV Indian Education program funding criteria will continue to impair the effective use of limited program funds. Yet NACIE - a body created to provide an advisory capability on Indian Education programs - finds the Office of Indian Education standing very aloof from the Council's guidance and assistance: a posture indicating this Office suffers from the age-old syndrome of "not-invented-here".

RECOMMENDATION #9 - (Report text page 133)

*The Office of Education - H.E.W. should begin to recognize the legislated functions of NACIE and utilize the expertise available in both its members and staff to assist the Office of Indian Education in solving its many program problems.*

\*\*\*\*\*

PROBLEM:

The precedent for preferential treatment in the hiring of Indians for training and employment opportunities in the field of Indian Education is well established. The Council believes that although the Office of Education is well aware of the federal laws pertaining to these requirements, it has adroitly circumvented them wherever possible in order to perpetuate its previous hiring policies, which in the main were non-Indians.

RECOMMENDATION #10 - (Report text page 135)

*That Congress require the U.S. Office of Education - H.E.W. to implement the requirements of the "Indian preference" laws by employing many more Indians in all of its Indian related programs.*

\*\*\*\*\*

The precedent for preferential treatment in the field of Indian  
for training and employment opportunities in the field of Indian Education  
is well established. The Council believes that although the Office of  
Education is well aware of the Federal laws pertaining to these special areas,  
it has not fully circumvented them whenever possible in order to perpetuate  
its previous hiring policies, which in the main were non-Indian.

RECOMMENDATION #10 - (Report text page 122)

That Congress require the U.S. Office of Education - W.E.B. DuBois  
the responsibility of the "Indian presence" and by explaining why some Indians  
in 1933 of the Indian Reservation program.

\*\*\*\*\*

## NACIE RESOLUTIONS

The following resolutions were passed by the Council during its deliberations on a variety of Indian Education issues that were discussed at the full Council meetings held during the calendar year 1975.

The issues were brought before the Council by either the members themselves or individuals present at the meeting. In each case, considerable discussion and thought has preceded the actual resolution with the hope that the Council's motions will be followed by positive actions.

\*\*\*\*\*



RESOLUTION - June 29, 1975

That the Chairman of NACIE write a letter of support for the Title IV Opportunities in Communications for Indian Studies in Minneapolis for possible funding from other sources.

\*\*\*\*\*

RESOLUTION - May 30, 1975

That NACIE authorize Council representation at the NIWA convention in Marquette, Michigan on June 11-12.

\*\*\*\*\*

RESOLUTION - May 30, 1975

That the Office of Indian Education provide NACIE with copies of rejection notices sent to Part A applicants whose proposals were disapproved.

\*\*\*\*\*

RESOLUTION - May 30, 1975

That the Council recommend the approval and disapproval of Part A proposals as presented by the Acting Program Manager of Part A, Title IV and for those other proposals which are still in the state of evaluation, to see that they are in compliance with the Act.

\*\*\*\*\*

RESOLUTION - May 31, 1975

That the Acting NACIE Director formally contact the Commissioner of Education requesting that he review the application process of Title IV Indian Education Act proposals and seek to assure that the processing, notification of application action, and the granting of awards, are as timely as possible.

\*\*\*\*\*

RESOLUTION - May 31, 1975

That the Office of Education support and provide additional resources to NACIE to hold additional meetings on or near Indian communities throughout the country for the specific purpose of encouraging local participation and involvement in the planning and direction of programs and policies relating to Indian Education in all areas.

\*\*\*\*\*

RESOLUTION - May 31, 1975

That the Legislative Committee and other Council members meet one day early in Bismark, N.D. to review information received from the Ad hoc Committee of Native Americans concerned with Indian Education in order to make recommendations to the full Council and to review the Office of Education/BIA legislative recommendations for the same purpose.

\*\*\*\*\*

RESOLUTION - June 28, 1975

That NACIE authorize and direct the Executive Committee to meet with Dr. Demmert in an effort to channel contract funds into direct technical assistance and to place the highest priority on the delivery of technical assistance through the best means available.

\*\*\*\*\*

RESOLUTION - June 29, 1975

That NACIE request the presence of Dr. William Demmert, Jr., Deputy Commissioner of Indian Education, at the New York meeting August 1-2-3, 1975 for the main purpose of developing a plan whereby the Council and the Office of Indian Education can continue to maintain a positive relationship on behalf of the upgrading of Indian education.

\*\*\*\*\*

RESOLUTION - June 29, 1975

That NACIE not make any recommendation on procedure or criteria for the nomination or selection of membership of the Council and that the Federal Administration make the decisions in accordance with the law.

\*\*\*\*\*

RESOLUTION - June 27, 1975

That the Office of Education not deny refunding successful on-going Title IV projects without first making a full review and/or without first making some efforts to identify other possible funding to ensure that innovative educational tools developed by such projects are not lost in addressing the special educational needs of the Indian people.

\*\*\*\*\*

RESOLUTION - June 29, 1975

That the Executive Committee be authorized to develop a personnel policy in light of the action taken at the Denver meeting May 29, 30, June 1, 1975, and present such policy to the full Council for final approval.

\*\*\*\*\*

RESOLUTION - June 29, 1975

That NACIE express special appreciation to its retiring Chairman, Dr. Will Antell, and to its Acting Executive Director, Dorrance Steele, for their leadership, dedication and commitment on behalf of the Council in addressing the special educational needs of the Indian people everywhere.

\*\*\*\*\*



RESOLUTION - June 29, 1975

The Legislative Committee present NACIE's concerns about the need for a comprehensive Indian analysis by the Ad-hoc Committee of the BIA-OE study and that our Intra-Government Committee resolution be presented by NACIE's Legislative Committee seeking Ad-hoc Committee support (This is relative to how studies should be developed and conducted ).

\*\*\*\*\*

RESOLUTION - June 29, 1975

That NACIE members review the 1974 amendment regulations recommendations and communicate our responses to the Acting Executive Director within the next two weeks.

\*\*\*\*\*

RESOLUTION - June 29, 1975

That BIA policy regarding the current operation and status of Inter-Mountain School not be altered until such time as the Indian people using the facilities have had an opportunity to be consulted and their position be transmitted to Commissioner Thompson by the NACIE staff.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That NACIE staff prepare material for publication as information in the form of a newsletter for distribution to the Indian people and suggest material in draft form, reflecting the Council's activities, to be presented at the October meeting.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the Executive Director write a strong letter to advise the Parent Committee of Portland, and to have the Office of Education also send a letter, explaining the concept of Indian control and involvement under the Indian Education Act of 1972.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That NACIE write a letter encouraging better relations between the Parents Committee and the school officials at Broken Arrow, Oklahoma as the most effective way to carry out the interests of PL 92-318.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That NACIE's future policy activities be reflected in the Council's new budget and that some of the past policies that differ from the present policies be modified or changed accordingly and that details of these changes be developed by the Executive Director and the Executive Committee with periodic consultation and approval of the Council.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the Council adopt the budget as presented by the Executive Committee as amended, provided that the said budget would be extended to reflect the true needs of the Council that greatly exceed the current resources (\$230,000) available. Further, the budget base would provide for at least four meetings and two committee meetings for each committee allowing for budget adjustments in accordance with the needs as they arrive.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the Council recommend to the Office of Education that readers for all programs, specifically Title IV, be limited to two consecutive years.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the full Council meet with representatives from ACKCO at the Council's next meeting and to set aside a full day to the study, with Ad hoc comments to be included.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the Office of Education take positive steps or means to develop means of coordinating its resources as well as to open up greater cooperation with other federal agencies, including non-governmental agencies, so that all Indian target areas are adequately met with the necessary resources and that the Office of Education recommend legislative changes wherever deemed appropriate.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That NACIE staff compile a list of proposals recommended for funding, including proposals reviewed at Washington and action that the Council delegated to Dorrence Steele and said information be submitted at the next Council meeting to be acted upon at that time.

\*\*\*\*\*



RESOLUTION - August 1-3, 1975

That NACIE inform the U.S. Commissioner of Education when the Council members find misuse of funds. These findings should be directed to proper federal agencies responsible for the administration of Title IV programs. NACIE rejects the inference that NACIE should be held accountable for the alleged misuse of Title IV funds. A letter outlining NACIE's responsibilities, according to the law, should be sent by NACIE staff to GAO staff and other appropriate officials in regard to this matter.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That NACIE in general supports the findings in the ACKO report, that the OIE provide for a periodic follow-up study so that OIE, Congress, and The Executive Branch (White House) be properly informed and that NACIE designate a legislative committee to provide a more detailed report for the information of OIE.

\*\*\*\*\*

RESOLUTION - August 1-3, 1975

That the Council reaffirms its position and recommends that the Office of Education inflect this position in its programs: Resources to go to Indian Communities and not only to be designated to meet the needs of education, that Indian direction and control is strongly fostered and perpetuated.

\*\*\*\*\*

RESOLUTION  
of  
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

October 19, 1975  
Seattle, Washington

Urging and requesting the Secretary of the Interior to protect Indian sovereignty and resources and;

WHEREAS, the Indian Education Act of 1972, (Public Law 92-318) is the first national effort to recognize the value of Indian Self-Determination in the area of Education;

WHEREAS, the Indian people have endorsed the concept of Self-Determination as a means to retain and revitalize their cultural heritage which is the mainstay of their strength and identity;

WHEREAS, the Secretary of the Interior, as custodian of our national resources, including its role as the trustee of Indian rights and their lands, have the responsibility to protect the integrity of Indian sovereignty and to ensure the proper management of their land and resources.

NOW THEREFORE BE IT RESOLVED, that the National Advisory Council on Indian Education urges the new Secretary of the Interior to develop a policy that would reduce and eliminate all conflicts within the agencies under the Interior Department with the interests of the Indian people;

BE IT FURTHER RESOLVED, that the Secretary immediately elevate the Bureau of Indian Affairs to a Secretarial level to ensure the full protection of Indian interest and Indian resources.

FINALLY, the National Advisory Council on Indian Education commends Thomas Kleppe for his forthright and positive statement that he will protect Indian heritage at the time of his appointment as the Secretary of Interior.

RESOLUTION  
of  
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

October 19, 1975  
Seattle, Washington

- WHEREAS, PL 92-318, the Indian Education Act of 1972 provides new opportunities at the highest government levels to plan and develop educational programs specifically designed to meet the local educational needs of the Indian people, and
- WHEREAS, Indian people throughout this nation have accepted this challenge with enthusiasm and new dedication, and
- WHEREAS, the success of this new opportunity requires greater Indian community involvement and direction in the development of innovative and quality Indian Educational Programs, and
- WHEREAS, The All Indian Pueblo Council is striving to improve its educational programs through the establishment of its own educational agency which would allow for greater local control and development of more effective educational tools in meeting the special needs of the Pueblo people;

NOW THEREFORE BE IT RESOLVED that the National Advisory Council on Indian Education at a duly called meeting at Seattle, Washington, hereby endorses and supports the self-determinative spirit and effort of the All Indian Pueblo Council to provide a more relevant and meaningful educational system for the Pueblo people.

BE IT FURTHER RESOLVED that NACIE encourages full cooperation of all resource agencies in support of the All Indian Pueblo Council's efforts to obtain necessary program development assistance.

RESOLUTION  
of  
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

October 19, 1975  
Seattle, Washington

WHEREAS, the Senate and House of Representatives of the United States passed Senate Bill 1017 in 1974 and was signed into law P.L. 93-638 by the President on January 4, 1975 and;

WHEREAS, this Act entitled the Indian Self-Determination and Education Assistant Act provided the authority for American Indian tribes to contract for operation by themselves programs heretofore provided under certain acts of Congress under the administration of the Department of HEW and Department of the Interior and;

WHEREAS, this Act called for the Department of the Interior and the Department of Health, Education, and Welfare to promulgate Rules and Regulations for implementing the Act, and;

WHEREAS, the proposed regulation of Public Law 92-638 and intended to encompass education services to American Indians by the Department of the Interior and whereas the National Advisory Council on Indian Education composed of American people and established under the authority of Public Law 92-318, "The Indian Education Act" are concerned with all aspects of education services to American Indians and;

WHEREAS, NACIE wished to express to the Senate Committee on Interior and Insular Affairs their concerns regarding the proposed regulation of P.L. 92-638 and the potential influence upon the continued progress of education services to American Indians of these regulations:

THEREFORE BE IT RESOLVED THAT, The Senate Committee on Interior and Insular Affairs:

- A. Insures that contracting of education programs and schools by the American Indian Tribal Governments does not stifle local initiative from Indian communities as presently American Indians operated schools exist not from tribal government initiative but local community initiative,
- B. Insures the continuity of schools and programs now in existence from being destroyed by the proposed regulations,



- C. Insures the continuity of school operation and education programs by eliminating the possibilities of tribal politics or change in the government from causing a school to be closed or kept open at tribal governments whims,
- D. Insures that a process of appeal to the Secretary of Interior is available to American Indian Communities to contract for their education should tribal governments refuse to request contracting rights.
- E. Insures that contracts for education by American Indian tribes or tribal organizations receive the full support of the Congress of the United States and the Department of Interior despite present desires and conscience efforts to include all American Indian students in existing state public education processes,
- F. That the Congress of the United States at the impetus of the Senate Committee of Interior and Insular Affairs allow the drafting of an entirely new section devoted exclusively to education contracts for the operation of entire public school programs by American Indians which will allow for community control or involvement in the education program received throughout the United States,
- G. That, specific funding be made available for contracting education by American Indians and that this funding not be conditioned upon distribution which would create hardship on programs other than education or where competition for funds for education programs with other much needed programs is caused,
- H. Insures that the organization of the Bureau of Indian Affairs, Education Division is so structured that immediate attention can be applied to carrying out education contracting requests from American Indians eligible to do so.
- I. That in the development of the Rules and Regulations under P.L. 93-638, that the federal trustee responsibility on behalf of the Indian people not be abrogated that such trust responsibility be enhanced, protected and honored in all aspects of contracting provisions under the law.

RESOLUTION  
of  
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

October 19, 1975  
Seattle, Washington

WHEREAS, expressing support of the new Secretary of the Department of Health, Education and Welfare and offering Council's cooperation and;

WHEREAS, the National Advisory Council on Indian Education, as presidential appointees with congressional mandate to carry out the intent of P.L. 92-318 in cooperation with the Commissioner of Education is deeply committed to the development of effective and relevant educational policies on behalf of Indian children and adults, and;

WHEREAS, the three years experience of the Council demonstrates that Indian involvement in their educational programs is the key to program effectiveness and success in achieving the purpose and the intent of P.L. 92-318 and;

WHEREAS, the recent trend in shifting Indian programs from the Interior Department to other federal agencies requires a new emphasis in coordination of such programs as well as incorporating into the present and future policies the necessary provisions that would recognize the unique and special needs of the Indian people.

NOW THEREFORE BE IT RESOLVED, that the National Advisory Council on Indian Education offers its support and cooperation to David Mathews, the new Secretary of the Department of Health, Education and Welfare, and;

BE IT FURTHER RESOLVED, the Council in carrying out its responsibility under the law feels it can provide the Secretary with the necessary assistance in the formulation of policies and programs that can effectively address the special needs of the Indian people and;

FINALLY, the Council requests the support of the Secretary in cooperation with the Commissioner of Education and the Deputy Commissioner on Indian Education in all areas of proposals relating to Indian Education in order that a strong and unified position can be presented to the Congress and the White House on a periodic basis.

RESOLUTION - October 17-19, 1975

That NACIE adopt the final summary report of the EO/BIA study as a realistic evaluation of existing educational programs for the Indian people and further that NACIE supports the recommendations in the study in the spirit and principle of self-determination so far as Indian educational needs are concerned. And further, the Council commends the ACKCO staff for a high degree of commitment and dedication in formulating, this report.

\*\*\*\*\*

RESOLUTION - October 17-19, 1975

That NACIE go on record in support of the Portland Title IV Parent Committee in their efforts to achieve a meaningful involvement in the planning and development of educational programs for the Indian children. And further, NACIE urges the Portland School District to cooperate with the Indian community to resolve educational issues on a mutual basis for the benefit of all the parties involved.

Further, the NACIE directs its Executive Director to explore all means including available resources to assist the Portland Title IV Parent Committee in their efforts.

\*\*\*\*\*

RESOLUTION - October 17-19, 1975

That the Office of Education submit to the Council their criteria and priorities for reviewing B & C proposals. The Council will submit to NACIE's Executive Director suggested changes and a meeting will be held by the Proposal, Rules and Regulations Committee to resolve any differences.

\*\*\*\*\*

RESOLUTION - October 17-19, 1975

That the Council accept the reading process as submitted by the Office of Education with the condition that the Council will have the right to review any or all of the final decisions made at the end of the process.

\*\*\*\*\*

RESOLUTION - October 17-19, 1975

That action be taken to initiate NACIE budget needs and direct our Executive Director to pursue the avenues (White House, OMB, Congress, OE,OIE, etc.) for funding.

\*\*\*\*\*

RESOLUTION - October 17-19, 1975

That NACIE staff formulate a policy on the professional conduct of the Advisory Council members which would be used as a guideline for them in responding to letters to other people outside the Council that



has nothing to do with permanent or position papers or position of the Council as a whole; including the amount of leeway the individual Council member has in expressing his views on issues that pertain to Title IV programs as a member of the Council.

\*\*\*\*\*

#### RESOLUTION - October 17-19, 1975

That NACIE draft a resolution to the Secretary of Interior to urge the protection of Indian sovereignty, Indian land and resources and elevate the BIA to Secretarial status and then we commend the new Secretary for his comment that he would protect the lifestyle of the Indian people, and offer NACIE's availability for issues on education, and further,

That another Resolution similar to the one to the Secretary of Interior be sent to the Secretary of H.E.W. stating our concerns.

\*\*\*\*\*

## Resolution on Bilingual Education

- Whereas; the center for Applied Linguistics of 1611 North Kent Street, Arlington, Virginia, 22209; has been contracted by the National Center for Educational-Statistics of the Title VII Section of ESEA, Office of Education, to develop an instrument to measure the extent of Limited English Speaking Ability among 172,000 Households in the United States, and,
- Whereas; The instrument is to measure English transitional needs and not the Indian language needs; and, would not develop the Indian language
- Whereas; The Indian Culture is an extension of the Indian Culture, and, the denial of Indian language is a denial of the Indian culture, thus a denial of the Indian nationalists; and,
- Whereas; the survey will be conducted by the Census Bureau which does not have a stake in Indian Education, nor the knowledge to make representative conclusions about Indian People; and,
- Whereas; the results of the survey will be forwarded to the United States Congress to determine the extent of funding for bilingual groups; and,
- Whereas; the results related to English transition would not fund Indian bilingual program, but, rather, would fund English programs; and,

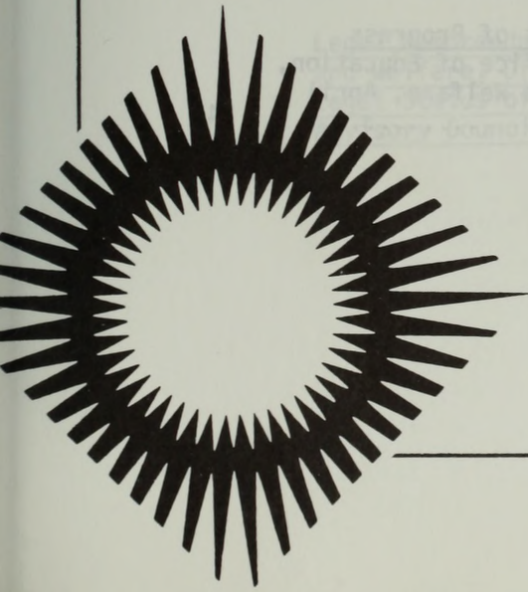
Whereas; the effects of this motion by the above institutions would be detrimental to Indian Culture, Education, and Survival;

Therefore be it resolved, that the National Advisory Council on Indian Education Declares;

1. National Indian organizations be notified and involved prior to development of such instruments and surveys, and such communication become ongoing with review and input; and
2. A separate report should be developed by the National Center of Educational Statistics and the Census Bureau which clearly defines the special relationship of the Indian People to the United States Government and the need for the development of the Indian Language in Indian Country to indicate the need to preserve the Indian Language, and culture, and,
3. Two instruments be developed to measure,
  - a. English proficiency
  - b. Bilingual impactto give realistic results in bilingual education, and
4. Copies of this resolution be mailed to the Center for Applied Linguistics for distribution to Census Bureau and the U.S. Office of Education.

# PART VI

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# NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

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## FULL COUNCIL MEETINGS

### 1973

Washington, D.C.	May 19-22, 1973
Washington, D.C.	June 16-21, 1973
San Francisco, California	July 25-29, 1973
Denver, Colorado	August 23-24, 1973
Billings, Montana	October 23-24, 1973
Washington, D.C.	November 17-19, 1973

### 1974

Washington, D.C.	February 20-22, 1974
Albuquerque, New Mexico	March 30-31, 1974
New Orleans, Louisiana	May 10-12, 1974
Washington, D.C.	June 17-18, 1974
Anchorage, Alaska	July 18-21, 1974
Oklahoma City, Oklahoma	October 18-20, 1974
Orlando, Florida	December 13-15, 1974

### 1975

Washington, D.C.	March 1-9, 1975
Denver, Colorado	May 30 - June 1, 1975
Bismarck, North Dakota	June 26-29, 1975
Rochester, New York	August 1-3, 1975
Seattle, Washington	October 16-19, 1975

### 1976

Reno, Nevada	January 15-18, 1976
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THE NEED FOR

FULL FUNDING OF FEDERAL INDIAN EDUCATION PROGRAMS

A PRESENTATION

TO

THE OFFICE OF MANAGEMENT AND BUDGET

Old Executive Office Building

Washington, D.C.

October 4, 1973

BY

REPRESENTATIVES OF

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

AMERICANS FOR INDIAN OPPORTUNITY

NATIONAL CONGRESS OF AMERICAN INDIANS

COALITION OF EASTERN NATIVE AMERICANS

NATIVE AMERICAN LOBBY

INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW

COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

WITH LETTER OF SUPPORT FROM

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

PREPARED BY

GERALD M. CLIFFORD

CONSULTANT TO

COALITION OF INDIAN CONTROLLED SCHOOL BOARDS, INC.

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## Introduction

The purpose of this paper is to provide a document essentially duplicating our oral presentation to the Office of Management and Budget on October 4, 1973. The presentation was made with a set of visual aide outlining a rationale for full funding not only for Title IV, P.L. 92-318, The Indian Education Act, but also a rationale showing the need for continued funding of the Johnson O'Malley Act, and P.L. 874, Impact Aid. For this reason, I will reproduce the content of the visual aid and provide a summary of the accompanying oral presentation.

Although a recommendation is included for funding through Fiscal Years 1975-1978, this recommendation was made primarily for the O.M.B. planning process and by no means indicates that we are not recommending full funding for FY 1974. The Congress has voted to appropriate 40 million dollars for FY '74; 25 million for part A, 12 million for part B, and 3 million for part C. If the President does not include this amount in his FY '74 budget message to Congress the Indian Community will be in exactly the same position we were in last year which resulted in an anti-impoundment lawsuit culminating in the Court ordering the Office of Education to release the 18 million dollars appropriated for FY '73. We are therefore emphatically recommending that the appropriated amount be included in the expenditures projected by the Administration for FY '74. We will note here that the present authorization is for three years, FY 1973 through FY 1975. Our understanding from discussion with the Congressional people is that the Bill will be reauthorized thus we have projected beyond FY 1975. Part D of the Act establishes the Office of Indian Education, the Administrative arm of O.E. which administers the Indian Education Act, in addition it establishes the National Advisory Council on Indian Education. Part D states, (d)



"From the sums appropriated pursuant to section 400(c) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section." We had not included in our initial presentation the amount of money necessary under part D to administer the program as well as to carry out the activities of the National Council. After consulting with the Executive Director of the National Advisory Council on Indian Education we understand that the minimal figure for carrying out the duties of the National Council as required by law is an initial \$260,000.00 with a projected 5% increase per annum. We understand also that the Office of Education has projected a \$2.5 million initial annual administrative budget for carrying out this program. However, since this Administrative figure must be justified by O.E. we would rather not make any projections for the Office of Education.

The almost unanimous support by the Indian Community for funding and implementation of the Indian Education Act as documented by the history of the appropriations process, the lawsuits, the application process for grants and entitlements, as well as the unanimity of support for this presentation is a phenomenon that can only be understood by a careful consideration of the facts herein presented.



The purpose for this presentation is to focus upon one subject;

INDIAN EDUCATION. We will further restrict our focus to Indian Education in Public Schools. This will become apparent as we proceed through the presentation.

## WHO PARTICIPATES IN INDIAN EDUCATION?

1. The Federal Government
  - a) Interior
  - b) H.E.W.
  - c) U.S.D.A.
2. State Educational Agencies
3. Local Educational Agencies
4. Private Organizations

By participation we mean the Agency either provides funds for the operation or support of Schools attended by Indian children and/or actually operates the School.

The Federal Government participates through the Interior Department's Bureau of Indian Affairs in the actual operation of B.I.A. Schools, it provides Johnson O'Malley monies to public Schools and contracts with a token number of Indian Communities which run their own School operations. We will not discuss the B.I.A. participation in Indian Education today, although we fully intend to address ourselves to this subject and hope to be able to make a presentation to you focusing on the B.I.A. Educational Effort in the very near future.

The Office of Education in H.E.W. participates through various programs, primarily Impact Aid PL-874, and the most recent and controversial being The Indian Education Act, Title IV, of PL-92-318.

The Agriculture Department participates to the extent that School lunch programs find their way into Schools attended by Indian students.

Other participation is by State, local and private organizations.

These are the participating Agencies but where does the primary responsibility lie?

## WHO IS RESPONSIBLE FOR INDIAN EDUCATION?

The Federal Government provides Education to all Indian children. Non-Indian children are the responsibility of the residing state.

Has the Federal Government met its responsibilities in Indian Education?

No! The American Indian is the most abandoned member of society. The Federal Government is retreating by turning its responsibilities over to state and local governments without proper financing and safeguards.

The Federal Government is responsible for educating all Indian children. This responsibility is attested to by the treaty documents between Indian tribes and the Federal Government all the way back to treaties which were signed by George Washington. In every instance every treaty wherein the United States gained territory for itself at the expense of Indian tribes a responsibility was acknowledged and promised by the United States to provide educational services to Indians. We can provide you with documentation of assertions later if you wish to dispute this but would like to proceed with our presentation based upon this principle.

Our second assertion is that the Federal Government has not met its responsibilities. It has not provided an adequate Financial base, nor has it provided a Mechanism with adequate safeguards to insure that the dollars appropriated for Indian Education are indeed used for that purpose. These are two very important subjects which must be discussed. We can reduce them to a) School Financing and b) School control. In this presentation we will focus upon the first, that is School Financing. Again we have many things to



say about School Control - particularly from the vantage point of the Indian School Boards represented by the Coalition of Indian Controlled School Boards, but feel that another meeting should be to discuss this problem. We will dwell briefly upon the problems which accompany lack of control.

FEDERAL DOMINATION AND STATE CONTROL RETARDS PROGRESS OF INDIAN PEOPLE. INDIANS ARE DEPRIVED OF OPPORTUNITY TO DEVELOP LEADERSHIP SKILLS FOR SELF-GOVERNMENT. INDIANS NEED EFFECTIVE VOICE TO PLAN AND IMPLEMENT EDUCATIONAL PROGRAMS FOR INDIAN NEEDS AND GOALS.

This administration has acknowledged this in the principle of Self-determination without termination. Indeed the President has asserted in his historic declaration of Indian Policy in 1970; "Consistent with out policy that the Indian Community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own schools". In spite of the statement of policy and the support of that policy by the Indian Community as a whole, we continue to struggle along with only superficial acknowledgement of these principles by the Governmental Agencies. We believe that the key to lasting development of the Indian people is an Educational program adequately financed by the Federal Government in accordance with its responsibilities but of equal if not greater importance, adequately controlled by the Indian Community.

## INDIAN YOUTH PROFILE

300,000 TOTAL - Of these:

52,000 ON RESERVATIONS ATTEND B.I.A. SCHOOLS

18,000 ON RESERVATIONS ATTEND MISSION SCHOOLS

100,000 ON RESERVATIONS ATTEND PUBLIC SCHOOLS

130,000 OFF RESERVATIONS ATTEND PUBLIC SCHOOLS

STUDENT ACHIEVEMENT IS BELOW ALL OTHER MINORITY GROUPS.

PRE-HIGH SCHOOL GRADUATION DROP-OUT ESTIMATES RANGE FROM 45% to 62%.

DROP-OUTS BEGIN IN 4th GRADE.

The figures which we are presenting here are from an Administration Study conducted by H.E.W. initially entitled "The 1970 Survey of Comprehensive Education" and are taken from the chapter devoted specifically to Indians. This survey has been renamed and is now under the jurisdiction of the National Center for Educational Statistics. You will note that 230,000 of 300,000 total Indian students in 1970, or more than 75% of the total Indian student population attended public schools. We can state without hesitation that there is adequate documentation both in this study as well as other studies that student achievement is below all other minority groups. We think that the Pre-high school graduation drop-out estimates are low. We know of a community on the Pine Ridge Reservation which graduates from High School only 10% of those students who enter first grade. Why is this the case?

62% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE NO TRAINING IN TEACHING ACADEMICALLY DISADVANTAGED STUDENTS.

70% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE HAD NO PARENTAL CONTACT.

ETHNIC BACKGROUND OF CLASSROOM TEACHERS OF INDIAN CHILDREN:

14% BLACK

78% WHITE

8% OTHER IE. SPANISH SURNAMED, ORIENTAL AND INDIAN (WE ESTIMATE THE FIGURE FOR INDIANS TO BE 1/2 OF 1% TO A MAXIMUM OF 2%.

Whatever be the outcome of a detailed causal analysis of the phenomenon of the unusually high drop out rates of Indian students we would predict that the statistics quoted from the same study are indicative of one of the root causes. Teachers of Indian students are not prepared to teach Indian students nor do they have any awareness of the particularly unique family and tribal structure of Indian students. The relevance of Indian teachers vs. non-Indian teachers in an Indian school is not quantifiable if we measure only formal teaching techniques, intelligence, and acquired knowledge. Yet we believe it can be shown that an understanding of a child's home situation and an appreciation of his emotional needs relative to classroom and group learning situations must be a prerequisite for any teacher of Indian students. An effort must be made to both increase the number of quality Indian teachers in Indian Schools as well as to re-educate the 98% of non-Indian teachers of Indian students to their special needs. We added our estimate of the



percentage of Indian teachers to the above figures based on a known figure that 1/2 of 1% of teachers of Navajo children are Indians.

## INADEQUATE TAX BASE

75% OF INDIAN STUDENTS LIVE IN DISTRICTS WITH A STATE AND LOCAL PER PUPIL EXPENDITURE LESS THAN \$300 WITHOUT FEDERAL SUPPORT.

EXAMPLE: HAMMON, OKLAHOMA

100 CHILDREN: 50 WHITE, 50 INDIAN

STATE AND LOCAL SUPPORT \$300.00

B.I.A. (JOHN O'MALLEY) 150.00

PL-874 (SAFA) 100.00

E.S.E.A. TITLE I 50.00

TOTAL P.P.E. \$600.00

STATE OF OKLAHOMA P.P.E. \$660.00

CONCLUSION: SYSTEM NEEDS NOT MET WITH FEDERAL SUPPORT AT PRESENT LEVEL.

The 75% figure quoted above is taken from the report issued by the "PRESIDENTS COMISSION ON SCHOOL FINANCING." We want to call your attention to the fact that 75% of Indian Students live in districts with a per pupil expenditure of less than \$300.00 per student. The National average is \$860.00 per student. The same study shows that the tax effort, that is, the rate at which property is taxed in these same districts is the highest in the nation. As an example North Dakota has the highest tax effort in the Nation, and yet has one of the lowest P.P.E. in the Nation. We can give you an immediate answer to the question why? Such School Districts are taxing property

which the United States Government originally set aside as Indian Country or Reservations. To the extent that the non-Indian has acquired this property within boundaries still designated as Reservations, to that extent the land is taxable. It was the United States Government's own estimation that the land was worthless in the first place that led to its being designated as RESERVATION.

We want to emphasize that we are not a public school district lobby. I personally find it extremely repugnant to be placed in the position of arguing for funds to go to public-school districts. Yet our basic argument is not for funds for public school districts but rather for funds to address the needs of Indian students who in fact attend public schools.

Turning to our example: Hammon, Oklahoma. We used this school both because the per pupil expenditures are ideal for demonstrating our position, but also to show that this is the root cause of an IRREVERSIBLE BREAK that has occurred in the community. As of this date the Indian community of Hammon has broken off from the school district to start its own school. The Federal monies are intended to provide for special needs of Indian students. The Indian Community is aware of this and have asked the School Board and Administration to render an accounting of expenditures, to provide them with some measure of control and to employ members of the Indian community in the school. The RESPONSE from the School Board was negative, in fact repressive to the point where Indian children were subjected to abusive treatment by teachers and administration. In no way can we justify that schools response to the legitimate concerns of the Indian Community but we can offer a reason for their

panic. They are using the Federal monies for basic school operations because they simply have no other source of revenue. Even maintaining J.O.M., Impact Aid, and Title One at present level that school district still doesn't have a per pupil expenditure equal to the state effort not to mention the national effort. We want to see a maximum tax effort in these districts and believe there should be an evaluatory mechanism yet at the same time we acknowledge the fact there simply isn't enough taxable property, NOR does the answer lie in an effort to tax Indian lands which such counties engage in. This is a Federal Responsibility which must be addressed by the Federal Government.



## SIXTH GRADE INDIAN STUDENT NEEDS

READING ASSISTANCE	46%
MATH. TUTORING	47%
LANGUAGE ASSISTANCE	47%
CULTURAL IDENTITY PROBLEMS	50%
HEALTH PROBLEMS	21%
PSYCHOLOGICAL COUNSELING	21%
MALNUTRITION	3%

The figures above represent figures for critical needs of sixth grade Indian students as cited in the 1970 Survey of Comprehensive Education. The figures were obtained by a Survey of Teachers in Schools teaching throughout the nation. There were small variations from region to region. The above figures are a mean of the needs in each region. We will acknowledge that the figures are the assessment of teachers who for the most part don't understand Indian students in the first place, yet they still are indicative of critical needs. We also point out that a significant amount of Indian students have dropped out of school before reaching the sixth grade. The percentages above indicate that the teachers assessment is that 46% of Indian students need special assistance in reading, 47% of Indian students need special tutoring in math. Without belaboring this point we would say that without this special assistance as we progress through the grades from 1st to 12th grade it would not be unreasonable to project that these figures can be applied to all Indian students.

Given this assumption it would not be unreasonable to project that 47% of the 500,000 Indian students, or 235,000 Indian students, need special assistance in language and math. Given the above assessment by teachers as well as the dropout rates, we don't think you will argue with us that there are no special needs of Indian students. What will it cost to deal with these needs?

# EDUCATIONAL NEEDS OF EVERY INDIAN CHILD

We have not used the figure of \$1,800.00 to \$2,000.00 in the above recommendations. Even using the recommendations for FY '76 of a total \$282 million dollars and the 1970 figure of 300,000 Indian students. We arrive at a figure of approximately \$880.00 per student which when added to the average P.P.E. in Indian school districts including J.O.M., S.A.F.A. and TITLE I Federal monies, we arrive at a total of approximately \$1500 per student. We will not go into this breakdown at length. We feel what is most important at this time is the acknowledgement by the Administrative of its responsibility are the financial costs to meet that responsibility. We

## RECOMMENDATIONS

1. CONTINUED FUNDING OF JOHNSON O'MALLEY PROGRAMS
2. FULL FUNDING OF P.L. 91-374 (SAFA)
3. FULL FUNDING OF I.E.A. TITLE IV, PL-92-319

ACCORDING TO THE FOLLOWING SCHEDULE:

<u>FY</u>	<u>PART A</u>	<u>PART B</u>	<u>PART C</u>
75	\$80 Million	\$35 Million	\$5 Million
76	\$120	50	10
77	\$160	50	15
78	\$200	50	15

TITLE IV, PL 92-318 IS THE ONLY FEDERAL PROGRAM DESIGNED TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EVERY INDIAN CHILD.

We have not used the figure of \$1,800.00 to \$2,000.00 in the above recommendations. Even using the recommendations for FY '76 of a total \$265 million dollars end the 1970 figure of 300,000 Indian students. We arrive at a figure of approximately \$880.00 per student which when added to the average P.P.E. in Indian school districts including J. O.M., S.A.F.A. and TITLE I Federal monies, we arrive at a total of approximately \$1500 per student. We will not go into this breakdown at length. We feel what is most important at this time is the acknowledgement by the Administrative of its responsibility are the financial costs to meet that responsibility. We

have demonstrated that Title IV is not a duplication of existing efforts, in fact existing efforts no way appear meeting Basic Operational Needs. We believe that Title IV at this point is the only Federal program which has the potential for addressing the special needs of all Indian children. We have limited ourselves to a discussion of FINANCIAL NEEDS although we indicated a need for a serious look at Safeguards or control by the Indian Community. We believe that Indians should control the Educational Institutions in their communities. For that reason we do not endorse Title IV, J.O.M., S.A.F.A. or any current Federal program as the ultimate answer. We would be happy to work with both the administration and congress to develop a more adequate legislation that includes both Federal Responsibility for Financing as well as adequate safeguards in terms of Indian control.



## FINANCIAL REQUIREMENTS

BECAUSE OF SPECIAL NEEDS AND BASIC FINANCIAL SUPPORT, ADEQUATE SERVICES WILL COST \$1,800.00 to \$2,000.00 PER CHILD.

We have quoted from documents which substantiate the fact of critical needs in Indian Education. How can we put a cost figure to these needs? Again we turn to an effort by the Federal Government to deal in a comprehensive manner with all the needs of students in a select number of school sites. The follow-through Program administered by the Office of Education has set a figure of \$1,800.00 to \$2,00.00 per child to provide what is hoped to be comprehensive services which meet student special needs as well as provide BASIC FINANCIAL SUPPORT. We think this is a low figure for Indian schools yet it is a figure used by the Administration and we feel that you can more readily accept it as justifiable.

Statutes Relating to Indian Education - Revised  
Passed Pursuant to Resolution of Congress of April 24, 1902  
National Education Association  
In connection with the  
Indian Civilization Fund, Act of March 30, 1902  
S. Stat. 139, 143

ACCOUNTABILITY  
IN  
INDIAN EDUCATION

Initial Authority for Federal Responsibility  
in Indian Education, 1902  
U. S. Stat. 139, 143  
U. S. Constitution - Article I, Section 8,  
Clause 3 (Commerce Clause)  
and Trade and Commerce with Foreign Nations  
and with Indian Tribes  
Dec. 5, 1794 with Delaware Tribe  
7 Stat. 47

Statutes Providing for Indian Education

Passed Pursuant to Treaties or to Set

National Policy:

Indian Civilization Fund, Act of March 30, 1802  
2 Stat. 139, 143

Initial Authority for Federal Responsibility  
in Indian Affairs: Education

U.S. Constitution - Article I, Section 8,  
Clause 3 (Commerce Clause)

Treaties with Education Provisions:

Dec. 2, 1794 with Delaware Tribe  
7 Stat. 47



Johnson-O'Malley Act, Act of April 16, 1934

Stat. 596, 25 U.S.C. 452-454

Authorizes Secretary of Interior to  
contract with States for Education of  
Indians.

Principal Authority Currently Relied On:

Snyder Act, Act of Nov. 2, 1921, 42  
Stat. 208, 25 U.S.C.13

BIA "shall...expend such moneys as Congress  
may...appropriate, for...Indians throughout  
the United States for...general support and  
civilization, including education."



# The BIA Dollar - Where It Goes

	<u># of Students</u>	<u>FY '74 Expenditures</u>
Public Schools (JOM)	93,800	25,187,000
BIA Boarding Schools	32,200	109,228,300
BIA Day Schools	15,800	
Indian Community Schools	4,600	4,500,000
Higher Education	13,000	18,892,100
Other?	?	<u>33,193,000</u>
	Total	\$181,000,400

# BIA Scholarship Stats. by Calendar Year

	<u>1971</u>	<u>1972</u>	<u>1973</u>
Funding Level	6,098,000	15,248,000	19,956,000
Enrollment	6,623	10,500	14,000
Average Grants	907	1,272	1,300
Dropouts	14.3%	14.2%	14.3%
# of Graduates	343	707	1,200

Total Staff: 7,735  
Permanent Staff Auth. : 4,000

	<u>Total Now</u>	<u>Vancancies</u>	<u>Indian</u>
Education Specialists	657	249	20%
Education Administrators	186	107	16%
Instructors	2,377	323	16%

Other Positions

Feeding operations, Clerical, Transportation,  
Maintainance, Visual Aides

FISCAL YEAR 1974  
Authorized Full-time Permanent Positions

Summary of Figures:

- Under the job category of "Program Direction and Administration" more than half (56%) of the job categories are administrative slots with the balance allocated to actual program development positions.
- The ratio of instructional technicians, i.e. writers and audio visual specialists, to instructional staff is 1 technician to every 589 instructional slots.
- The ration of Printing and Visual Aides personnel is 6 printing and visual aides slots to 3,300 instructional-program direction slots.
- More full time staff positions are authorized in the job category "Feeding Operations:", (759), than "Program Direction and Administration" and "Printing Visual Aides" combined, (663).

The printout does not detail how these jobs are distributed by regional office or geographic area so it is not possible to determine the ratio of staff slots to pupils served or whether there are discrepancies in staffing patterns between regions.

<u>State</u>	<u># of JOM Students</u>	<u>Funds</u>
Kansas	227	80,000
Florida	261	20,000
Alaska	7,717	4,712,975
Arizona	18,270	3,735,000

Re: JOM Funds Expended In Orange County

According to Oklahoma census figures for 1970:

- the Total Indian population of the state was 97,179
- the median age for the Indian population was 23.3 years old
- of the total number of Indians in the state, 34,110 persons were between the ages of 5 and 19.

According to these census statistics, Tulsa SSMA which takes in all of Osage County has a population of 6,876 children under the age of 18 who are designated by the race category "Other". Although the category includes groups other than American Indian Children.\*

If this is the case, with several hundred school-age children in the Osage County areas, why are only 34 children listed as receiving JOM funds in the BIA fiscal reports?

\*According to the map printed by Social and Economic Statistics Administration Bureau of Census (1970), there are 25,000 to 91,909 American Indians residing in Osage County, Oklahoma.



STRUCTURAL INADEQUACY

Educational Accountability

Fiscal Accountability

BIA Administration → Survival of  
Bureaucracy

Public Schools → Reduction of  
Tax Effort

BIA CONTRACT SCHOOLS

Community  
Controlled  
Schools

Fiscal Accountability to  
Central Contract Auth.

Fiscal and Educational  
Accountability to  
Local Community

## OUR RECOMMENDATIONS

- I. Improved Contracting Procedures (BIA)
- II. Improved Budget Review (BIA)
- III. Update Plans for Higher Education
  - Projected Enrollment 30,000 Students
  - Increase Appropriations Schedule
  - Support Indian Community Colleges

*Presented to the National Advisory Council on Indian Education, at its  
January 16-18, 1976 meeting in Reno, Nevada.*

### Our Recommendations Cont.

- IV. Phase-out of BIA Education Administration
- V. Establish Full-scale Contracting Capacity
- VI. Task Force Review of BIA

*Presented on behalf of The Council for  
Exceptional Children by:*

*Bruce A. Ramirez  
Governmental Relations Unit  
The Council for Exceptional Children  
Reston, Virginia*

I. Improved Longitudinal Procedures (1974)

II. Improved Budget Review (1975)

III. Update Plans for Higher Education

-Projected Enrollment 20,000 Students

-Increased Academic Standards

-Support Indian Community Colleges

to establish  
funds

Out Recommendations Cont.

at various times

IV. Phase-out of the Education Administration

V. Establish Full-scale Contracting Agency

VI. Task Force Report of the

Committee



# BACKGROUND PAPER

ON

## AMERICAN INDIAN EXCEPTIONAL CHILDREN

JANUARY 17, 1976

Presented to the National Advisory Council on Indian Education, at its  
January 16-18, 1976 meeting in Reno, Nevada.

Presented on behalf of The Council for  
Exceptional Children by:

Bruce A. Ramirez  
Governmental Relations Unit  
The Council for Exceptional Children  
Reston, Virginia



## Background Paper American Indian Exceptional Children

### Introduction

In a speech at the 1975 National Indian Education Association Convention in Oklahoma City, Dr. Noah Allen, the then Acting Director of the Bureau of Indian Affairs (BIA) Education Branch, outlined several critical areas of need facing Indian education. Included in the list was special education for exceptional (handicapped and gifted) American Indian children.

Dr. Allen's remarks come at a time when American education is experiencing an extensive change in public policy regarding the educational rights of exceptional children. Since the early 1970's extensive litigation as well as state and Federal legislation have affirmed the right of all children to be provided a free public education. Recently the focus has gone beyond solely access to an education, and has called for exceptional children to be provided an appropriate educational program to meet their needs.

Initially, the education rights movement focused on the handicapped. These were children who because of mental, physical, emotional or learning problems required special education services. More recently there has been a tendency to include the gifted and talented as exceptional. While there appears to be significant progress toward the goal of equal educational opportunity for exceptional children, the situation for American Indian, including Alaskan native exceptional children, has remained virtually unchanged; they continue to be deprived of appropriate educational services.

### Incidence Information

The diverse nature of the Indian population combined with varied government units providing direct and indirect services has made it exceedingly difficult to determine the exact numbers of exceptional Indian children requiring special education services. However, the limited information that does exist is startling regarding the need for improved delivery services to exceptional Indian children.

#### Otitis Media Data

Otitis Media which results in differing degrees of hearing impairment particularly among younger children is the number one reportable disease among American Indians. The Indian Health Service in its most recent publication reported the incidence rate of Otitis Media in 1971 to be 10.5 percent for all ages of Indians.<sup>1</sup> In terms of numbers this means that there were 49,478 Indians who required some type of treatment to correct or compensate for their loss of hearing.

An earlier survey of 3,318 Navajo students in boarding schools on the Navajo Nation revealed the prevalence rate of chronic Otitis Media to be over 7 percent which is about 15 times greater than that of the general population.<sup>2</sup> Using information collected from public health and social service agencies the Navajo Tribe estimated that the prevalence of speech, hearing, and vision problems ranges as high as 40 percent of the total Navajo population of approximately 130,000 people.<sup>3</sup>

#### Bureau of Indian Affairs Survey

A survey conducted through BIA area offices in the Spring of 1972 estimated that 19,540 of 49,720 students enrolled in BIA operated schools were exceptional (See Appendix A). This is approximately 39 percent of the school age population as compared to a national average of 10-12 percent. Of the estimated 19,540 exceptional children, 3,715 students were reported to have received services, while 15,825 students still needed appropriate special education services (Appendices A1 and A2). Subsequent Office of Education testimony before the House Subcommittee on Elementary, Secondary, and Vocational Education in July, 1975 indicated that approximately 4,500 have been provided special education services.<sup>4</sup>

#### 1974 Deaf-Blind Survey on the Navajo Nation<sup>5</sup>

This survey located and identified sixteen deaf-blind Navajo children. Although all the children were attending state facilities for the deaf, blind or mentally retarded, one group of eight youngsters were without a program. The survey reported that a program would be initiated for these children during the 1975 school year.

### Public Policy and Exceptional Children

This section presents a summary of public policy as it relates to the education of exceptional children at both the state and Federal levels. The basis for much of this legislation has been a host of court cases beginning with the PARC v. Commonwealth of Pennsylvania<sup>6</sup> and Mills v. Board of Education<sup>7</sup> decisions in the early 1970's which established for handicapped children the right to an education.

#### State Policy

Increasingly states have moved to adopt mandatory legislation requiring the education of all eligible exceptional children, as defined in each state's policies. A survey of state legislation in 1975 revealed that all but two states had adopted some form of mandatory legislation (Appendix B). The survey further indicated that 37 of the 48 states with mandatory legislation passed their current special legislation since 1970.

The following passage from the Arizona law is representative of much of the recent right to education legislation:

It is the intent of the Legislature to guarantee equal educational opportunity to each handicapped child in the state regardless of the schools, institutions or programs by which such children are served.

To the extent practicable, handicapped children should be educated in the regular classes. Special classes, separate schooling or other removal of handicapped children from the regular educational environment, shall occur only if, and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.<sup>8</sup>

In addition to mandating special education programs and services for all categories of handicapped children, except the emotionally handicapped, by the 1976-77 school year, the Arizona law requires local school districts to develop comprehensive plans for the delivery of services.

#### Federal Policy

The purpose and design of Federal legislation such as the Education Amendments of 1974, P.L. 93-380, and the more recent Education for All Handicapped Children Act, P.L. 94-142, has been to end the exclusion of handicapped children from the public education system. As such the legislation has focused on the critical areas of educational rights and finances.

Under P.L. 93-380, Section 613 (a)(12) and (13), states in order to remain eligible to receive Federal funds for the education of the handicapped were required to amend their 1975 state plan setting forth:

- (1) Assurances of a full service goal for all handicapped children; and
- (2) Procedures guaranteeing safeguards in identification, evaluation and educational placement decisions. Such safeguards include due process guarantees, as well as assurances for nondiscriminatory testing and evaluation and placement in the least restrictive alternative setting.

P.L. 93-380, Section (b)(1), further required states to provide assurances in their 1976 state plans providing for:

- (1) Policies and procedures it will use in identifying, locating and evaluating all children within the state who are not currently receiving needed special education services (Child-find plans);

- (2) Policies and procedures guaranteeing the protection of confidentiality of data and information; and
- (3) A thirty day public comment period prior to submission of the plan.

In addition to reaffirming the rights provisions set forth in the Education Amendments of 1974, P.L. 94-142 greatly increases and expands the Federal government financial commitment to states and their localities regarding the education of handicapped children. P.L. 94-142 further stipulates provisions pertaining to individualized instruction, parent surrogates, and establishes a compliance mechanism as well as state advisory panels.

P.L. 94-142 also contains a 1 percent set aside for the education of handicapped Indian children attending schools operated by the BIA. Section 611 (f)(1) states:

The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payments for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this part for that fiscal year.

A similar provision in P.L. 93-380 provided the BIA with slightly less than one million dollars for Fiscal Year 1975. In order to receive this allocation the Secretary of the Interior must assure all the educational rights for American Indian children required of the states and their localities. In this regard the BIA has been required to submit plans delineating its due process guarantees and child-find procedures and confidentiality guarantees.

### Critical Need Areas

In light of the preceding information about public policy and current services available to exceptional Indian children, it is apparent that there are a number of issues that must be addressed if exceptional Indian children are to be afforded their right to a free public education. The following need areas are discussed in the context of their importance for improving the delivery of special education services to exceptional Indian children. The topics are not presented in any order of importance.

#### BIA Special Education Programs and Services

As previously indicated, the BIA according to the most recent testimony before the House Subcommittee on Education is presently providing special education



services to only 20 percent of the total number of exceptional children attending its schools. However, under P.L. 94-142 the BIA is committed to a full service goal for all handicapped children, ages 3 to 18, by the beginning of the 1978 school year.

Under current conditions it is unlikely that the BIA will be able to reach its full service goal due to policies which do not recognize and support special education programming. The following factors will continue to have a negative impact upon the implementation of comprehensive special education services within the BIA for exceptional Indian children:

- (1) No budget line item for initiating and maintaining special education programs and services in BIA operated schools.
- (2) No mandatory legislation with respect to the education of exceptional Indian children.

Under such circumstances the BIA has had to rely on U.S. Office of Education grants i.e. Title I, Title III and EHA, Part B for much of its special education program support. Because most of the BIA special education services are supported through grants almost all of the special education personnel are temporary employees appointed only for the duration of the project. This condition has also resulted in a special education administration with little system wide program responsibility.

The above information indicates an urgent need to improve the quantity and quality of special education services in the BIA. In this regard, The Council for Exceptional Children (CEC) is committed to working with Indian groups and organizations to (1) establish a line item for special education within the BIA budget and (2) enact legislation requiring the BIA to provide appropriate educational services to all exceptional Indian children.

#### Inadequate Numbers of Indian Special Education Personnel

The shortage of Indian teachers, administrators as well as other ancillary educational personnel has been well documented over the past several years. As one would expect, there is a concurrent need for American Indian special education teachers for the Indian child who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, learning disabled, other health impaired or gifted and talented. In addition to teachers there is also a need for Indian special education administrators as well as Indian diagnosticians.

## State Plans

As previously mentioned the states and BIA are required under P.L. 93-380 to develop procedural safeguards and child-find plans in order to remain eligible for federal funds for the handicapped.

Currently the state and BIA due process guarantees of the 1975 amended state plans are being reviewed by CEC with regard to provisions which assure that communication with parents of exceptional children be conducted in the primary language of the home. In addition, careful consideration is being paid to testing and evaluation materials and procedures that may be racially or culturally discriminatory.

P.L. 93-380 also requires the states, as part of their efforts to reach full service, to locate and evaluate all handicapped children currently not receiving needed special education services. Ordinarily this would be solely a state responsibility, however, the BIA is also required to submit a plan and it is possible that a situation could develop where unserved handicapped children residing on trust areas would not be identified due to confusion over who is ultimately responsible for identifying such children. Under these circumstances we urge the respective agencies of the state and BIA to develop a cooperative arrangement with Tribal governments to facilitate the identification of unserved handicapped children.

## Contract Schools

With the passage of the Indian Self-Determination and Education Assistance Act, P.L. 93-638, it is likely that there will be an increase in the number of schools contracting with the BIA to operate local school programs. Under these circumstances it is important for such schools to recognize the need to provide special education services to exceptional children within their jurisdictions. In this regard the Federal government should provide financial support to contract schools for the support of special education services.

## Inappropriate Special Class Placement

The over-representation of culturally different children in special education classes for the mentally retarded has been a subject of much concern in recent years. Incidents of inappropriate special class placement of Indian children has been reported by the Office of Civil Rights in the Shawano, Wisconsin school district.<sup>9</sup> The Shawano study found that the misuse of tests and testing procedures resulted in the overinclusion of Indian children in classes for the mentally retarded. While it has been difficult to determine the extent of similar incidents involving Indian children, this is an area that needs greater attention.

The issue of misplacement was addressed in P.L. 93-380 and more recently in P.L. 94-142, both of which require assurances for nondiscriminatory testing and evaluation procedures from the state and its localities. The exact nature of such procedures will vary according to localities, however, there is a need for Indian people to begin reviewing and developing nondiscriminatory evaluation and placement procedures based on their own local needs.

### Preschool Programs Serving the Handicapped

The Office of Child Development (OCD) through its Head Start program is mandated to make available to handicapped children not less than 10 percent of its total enrollment opportunities in each state. With regard to its Indian grantees OCD in its "1975 Report of Head Start Services to Handicapped Children" reported statistics which revealed that 8.79 percent of the children enrolled in programs monitored by the Indian and Migrant Programs Division were believed to be handicapped (Appendix C).

The report went on to identify the following areas of concern associated with the integration of handicapped children into the regular Head Start program: availability of professional diagnostic services, lack of resources, mislabeling, staff training related to the early education of handicapped children, and strategies to ensure continuity of services for handicapped children after leaving Head Start.<sup>10</sup> Although no differentiation was made regarding program type i.e. Indian, migrant, urban, etc. these are problems that are of equal if not greater concern to Indian grantees. Although the survey did not target specifically on Indian Head Start programs, the same problems are of concern to Indian grantees as well.

### New Directions

At the local level there have been a number of Indian initiated activities which are designed to provide improved services to exceptional Indian children. Some of the more organized efforts include:

- (1) The establishment in 1972 of the Navajo Department of Special Education whose goal is to bring about the development of comprehensive services for all Navajo handicapped persons.
- (2) The founding of the following Indian advocacy groups for the retarded:
  - \* Hopi Tribal Parents' Association for Retarded Children and Adults
  - \* Sicangu Association for Retarded Citizens (Rosebud)
  - \* Dine Association for Retarded Citizens (Navajo)
- (3) The establishment of community based programs for the handicapped such as:
  - \* St. Michaels Association for Special Education
  - \* Chinle Valley School for Exceptional Children

- \* Hopi Center for Human Resources
- \* Laguana Special Education Project
- \* Project Palatisha (preschool)
- \* Duluth Project on Handicapped Indian Children

Up to this point exceptional Indian children have received little attention from national organizations associated with Indian Education. An exception to this trend is the recent 1975 resolution endorsed by the Education Committee of the National Congress of American Indians (NCAI) at its 32nd annual convention calling for increased attention on the part of the BIA, the Office of Indian Education and NACIE regarding special education for exceptional Indian children.

While the NCAI resolution and the increase in community level efforts is encouraging there remains much to be done if the exceptional Indian child is to be provided needed special education services. Critical to any efforts to improve the educational opportunities afforded exceptional Indian children is national leadership from Indian groups and organizations. Such leadership, while focusing attention on problems of significant concern, could also provide strategies for ensuring complete equality of opportunity for exceptional Indian children.

### Recommendations

The Council for Exceptional Children recommends that the National Advisory Council on Indian Education (NACIE) consider adoption of the following:

- (1) That education of exceptional Indian children be considered a priority of the Office of Indian Education, the Bureau of Indian Affairs and other Federal agencies affecting the education of Indian children.
- (2) That a coordinated plan for the education of exceptional Indian children be developed under the aegis of NACIE.
- (3) That NACIE recommend that the Bureau of Indian Affairs develop a line item budget and specific mandatory legislation for the education of exceptional Indian children
- (4) That NACIE recommend that the Education Task Force of the American Indian Policy Review Commission devote specific attention and time to policy matters relating to the education of exceptional Indian children.
- (5) That NACIE meet with the Bureau of Education for the Handicapped to develop strategies for assuring the development of adequately trained staff for programs for the education of exceptional Indian children.



## References

- <sup>1</sup>U. S. Department of Health, Education, and Welfare, Indian Health Services, Office of Program Statistics, Indian Health Trends and Services, 1974.
- <sup>2</sup>Ronald L. Johnson, "Chronic Otitis Media in School Age Navajo Indians," Laryngoscope 77 (November 1967) 1990-1995.
- <sup>3</sup>Elizabeth A. Murphy, "The Classroom: Meeting the Needs of the Culturally Different Child -- the Navajo Nation," Exceptional Children 40 (May 1974) 601-608.
- <sup>4</sup>Hearings before the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor, United States House of Representatives on Indian Education, Washington, D. C., July 28, 29, 1975.
- <sup>5</sup>J. A. Thayer, "Final Report: Navajo Deaf-Blind Search and Identification Project," Northern Arizona University, 17 July 1974.
- <sup>6</sup>Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa. 1971).
- <sup>7</sup>Mills v. Board of Education of District of Columbia, 348 F. Supp. 866 (D.D.C. 1972).
- <sup>8</sup>Arizona Law, Chapter 181, Section 1, and Chapter 181, Section 5 (15-1015[1]), 1973.
- <sup>9</sup>U. S. Department of Health, Education, and Welfare, Office of Civil Rights, Region V, "Special Education Section of the Draft Report of the Title VI Review of the Shawano School District," 1971.
- <sup>10</sup>U. S. Department of Health, Education, and Welfare, Office of Child Development, Third Annual Report of the U. S. Department of Health, Education, and Welfare to the Congress of the United States on Services Provided to Handicapped Children in Project Head Start, Washington, D. C., June 1975.

Appendix A

BUREAU OF INDIAN AFFAIRS  
AREA/AGENCY TOTALS  
CURRENT SPECIAL EDUCATION SERVICES  
AND  
PROJECTED NEEDS  
SEPTEMBER, 1972

Areas/Agencies*	Total Students Served	Total Number of Exceptional Students	Percent of BIA Enrollment Thought to be Exceptional	Students Rec'ing Sp. Ed. Services	Students Still Needing Sp. Ed. Services
Albuquerque Area	2,422	1,117	46.10	702	415
Aberdeen Area	9,686	6,737	69.55	694	6,043
Anadarko Area	1,047	277	26.46	40	237
Cherokee Agency	1,250	266	21.28	177	89
Juneau Area	5,485	1,432	26.11	499	933
Muskogee Area	650	491	75.54	126	365
Navajo Area	22,630	6,062	26.79	1,034	5,028
Phoenix Area	4,314	1,650	38.25	150	1,500
Portland Area	850	205	24.12	170	35
Choctaw Agency	1,386	1,303	94.01	123	1,180
<b>TOTAL</b>	<b>49,720</b>	<b>19,540</b>	<b>39.30</b>	<b>3,715</b>	<b>15,825</b>

\*5 areas (Navajo, Aberdeen, Juneau, Phoenix and Albuquerque) enrolled 89.6% of the students enrolled in BIA schools.

ESTIMATED NUMBER OF CHILDREN IN  
BUREAU OF INDIAN AFFAIRS SCHOOLS  
RECEIVING SPECIAL EDUCATION  
SEPTEMBER, 1972

AREAS OR AGENCIES	Hard of Hearing	Crippled or Orthopedic	Trainable Mentally Retarded	Socially Maladjusted	Gifted	Language Disorders	Deaf	Other Health	Visually Impaired	Educable Mentally Retarded	Emotionally Disturbed	Slow Learner	Speech Impaired	Learning Disabled	TOTAL
Albuquerque	46	9	3			177		10	124	76	82		50	125	702
Aberdeen	95		50							465			84		694
Phoenix										60	12			78	150
Cherokee	35	1					2	2	40	23	6		60	8	177
Juneau	90	10	5				8	20	200	96	25		5	40	499
Muskogee	16		10						40	20	20		20		126
Navajo	150		15		90		15			345	80	234	30	75	1034
Choctaw	5								20		20			78	123
Anadarko										20	15			5	40
Portland	30								40		50		10	40	170
TOTAL	467	20	83	0	90	177	25	32	464	1105	310	234	259	449	3715

Appendix A2

ESTIMATED NUMBER OF CHILDREN IN  
BUREAU OF INDIAN AFFAIRS SCHOOLS  
REQUIRING SPECIAL EDUCATION  
SEPTEMBER, 1972

AREAS OR AGENCIES	Hard of Hearing	Crippled or Orthopedic	Trainable Mentally Retarded	Socially Maladjusted	Gifted	Language Disorders	Deaf	Other Health	Visually Impaired	Educable Mentally Retarded	Emotionally Disturbed	Slow Learner	Speech Impaired	Learning Disabled	TOTAL
Albuquerque	36	5				250			9	19	18		50	28	415
Aberdeen	100	293	150				50		100	550	2000		300	2500	6043
Phoenix **	145	75					5		150	225	100			800	1500
Cherokee	11		5					2		20	21		18	12	89
Juneau	96	5	15		51		4	19	500	118	50		25	50	933
Muskogee	25		20						100	40	100		40	40	365
Navajo	352	176	104	417	366	158			293	343	514	2063	188		4974
Choctaw	69		5						451	10	20		610	15	1180
Portland											25		10		35
Anadarko	22	10	14					6	21	80	32			22	207
TOTAL	856	564	313	417	417	408	59	27	1624	1405	2880	2063	1241	3467	15,741

\*\* due to the special education philosophy of the Phoenix area data is not collected in terms of categorical handicaps.





## Appendix B

### STATE STATUTORY RESPONSIBILITIES FOR THE EDUCATION OF HANDICAPPED CHILDREN

July 1, 1975

*This chart was prepared by The Development and Evaluation of State and Local Special Education Administrative Policy Manuals Project of the State-Federal Information Clearinghouse for Exceptional Children of the Council for Exceptional Children*

STATE	TYPE OF MANDATION	DATE OF PASSAGE	COMPLIANCE DATE	AGES OF ELIGIBILITY	CATEGORIES EXCLUDED
Alabama	Full Planning and Programming	1971	1977	6-21	Profoundly Retarded
Alaska	Full Program	1974		From age 3	
Arizona	Selective Planning and Programming	1973	9/76	5-21	Emotionally Handicapped
Arkansas	Full Planning and Programming <sup>1</sup>	1973	9/79	6-21	
California	Selective			6-18 <sup>2</sup>	"Educationally Handicapped" (Emotionally Disturbed, Learning Disabled)
Colorado	Full Planning and Programming	1973	7/75	5-21	
Connecticut	Full Planning and Programming	1966		4-21 <sup>3</sup>	
Delaware	Full Program "Wherever Possible"			4-21	Severely Mentally or Physically Handicapped
District of Columbia	No Statute, Court Order: Full Program	1972	1972	From age 6	
Florida	Full Program		1973 <sup>4</sup>	3-no maximum (13 yrs. guaranteed)	
Georgia	Full Planning and Programming	1968	9/75	3-20	
Hawaii	Full Program	1949		5-20	
Idaho	Full Program <sup>5</sup>	1972 <sup>5</sup>		Birth-21	
Illinois	Full Program	1965	7/69	3-21 <sup>6</sup>	
Indiana	Full Planning and Programming	1969	1973	6-18 <sup>7</sup>	
Iowa	Full Program "If Reasonably Possible"	1974		Birth-21	
Kansas	Full Planning and Programming	1974	1979 <sup>8</sup>	Developmentally Disabled: Birth-21	
Kentucky	Planning and Programming (Petition for Trainable Mentally Retarded only)	1970 1962	1974	9 6-21	Other than TMR
Louisiana	Court Order—Orleans Parish only: Selective for Mentally Retarded, Otherwise, Mandatory	1972	1972	3-21 <sup>10</sup>	Other than Mentally Retarded
Maine	Full Planning and Programming	1973	1975 <sup>11</sup>	5-20	
Maryland	Full Planning and Programming	1973	1979 <sup>12</sup>	13	
Massachusetts	Full Planning and Programming	1972		3-21	
Michigan	Full Planning and Programming	1971	9/73	Birth-25	
Minnesota	Full Program	7/72 <sup>14</sup>	14	4-21, except MR (5-21) and ED (6-21)	
Mississippi	Permissive			Birth-21	
Missouri	Full Planning and Programming	1973		5-21	
Montana	Full Program <sup>15</sup>	1974	7/79	6-21	
Nebraska	Full Planning and Programming	1973	10/76 <sup>16</sup>	5-18	
Nevada	Full Program	1973		5-18 <sup>17</sup>	
New Hampshire	Full Program			Birth-21	
New Jersey	Full Program	1954 <sup>18</sup>		5-20	
New Mexico	Full Planning and Programming	1972	9/76	6-21 <sup>19</sup>	
New York	Full Program	1973	1973	5-21	Profoundly Retarded
North Carolina	Full Planning	1974	20	Birth-Adulthood <sup>21</sup>	
North Dakota	Full Planning and Programming	1973	7/80 <sup>22</sup>	5-21 <sup>3</sup>	
Ohio	Permissive			Birth-21	Other than crippled or Edu- cable Mentally Retarded, Deaf, Blind, Partial hearing or vision
	Selective Planning	1972	1973	23	Trainable or Profoundly Mentally Retarded
Oklahoma	Full Program	1971	9/70	4-21 <sup>24</sup>	
Oregon	Full Program	1973		EMR: 6-21 Others: Birth-21	
Pennsylvania	Court Order: Selective (Mentally Retarded Only)	1972	9/72	6-21 <sup>25</sup>	Other than mentally retarded
	Full Planning and Programming	1956	1956	6-21	
Rhode Island	Full Program		1964 <sup>26</sup>	3-21 <sup>26</sup>	
South Carolina	Full Planning and Programming	1972	1977	6-21 <sup>27</sup>	
South Dakota	Full Program	1972		Birth-21	
Tennessee	Full Planning and Programming	1972	9/74 <sup>2</sup>	4-21	
Texas	Full Program <sup>28</sup>	1969	9/76 <sup>28</sup>	3-21	
Utah	Full Program	1969		5-21	
Vermont	Full Program <sup>29</sup>	1972		Birth-21	
Virginia	Full Planning	1972	30	2-21	
Washington	Full Program	1971		6-21 <sup>31</sup>	
West Virginia	Full Program	1974	1974	5-23 <sup>32</sup>	
Wisconsin	Full Planning and Programming	1973	8/74	3-21	
Wyoming	Full Program	1969		6-21	

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<sup>1</sup> Current statute is conditional: 5 or more similarly handicapped children in district. However, a 1973 Attorney General's opinion stated that the law mandating full planning and programming was effective July, 1973. If the state activates a kindergarten program for 5-year-old children, ages of eligibility will be 5-21.

<sup>2</sup> Permissive for children 3-21, except MR: 5 yrs, 8 mos.-21.

<sup>3</sup> 3-21 for hearing impaired. Lower figure applies to age of child as of Jan. 1 of the school year.

<sup>4</sup> 1973 law did not include profoundly retarded; however, a 1974 amendment brought these children under the provisions of the mandatory law. Compliance date for full services to these children is mandated for 1977-78.

<sup>5</sup> Earlier (1963) law was mandatory for all handicapped children except Trainable Mentally Retarded.

<sup>6</sup> 5-21 for speech defective.

<sup>7</sup> Permissive 3-5 and 19-21.

<sup>8</sup> "Developmentally Disabled" means retardation, cerebral palsy or epilepsy. For other disabilities, the state board is to determine ages of eligibility as part of the state plan. Compliance date is 7/1/74 for DD programs.

<sup>9</sup> Permissive: 3-6.

<sup>10</sup> Residents over age 21 who were not provided educational services as children must also be given education and training opportunities.

<sup>11</sup> In cases of significant hardship the commissioner of education may waive enforcement until 1977.

<sup>12</sup> Court order sets deadline in Sept., 1975.

<sup>13</sup> Services must begin as soon as the child can benefit from them, whether or not he is of school age.

<sup>14</sup> Date on which Trainable Mentally Retarded were included under the previously existing mandatory law.

<sup>15</sup> Statute now in effect is selective and conditional: at least 10 Educable Mentally Retarded, 7 Trainable Mentally Retarded, or 10 physically handicapped in school district. Full mandation becomes effective 7/1/79.

<sup>16</sup> Acoustically handicapped: 10/1/74.

<sup>17</sup> Aurally handicapped and visually handicapped: birth-18.

<sup>18</sup> Date of original mandatory law, which has since been amended to include all children.

<sup>19</sup> Child must be 6 years old by Jan. 1 of school year.

<sup>20</sup> Implementation date to be specified in preliminary state plan to be submitted to 1975 General Assembly.

<sup>21</sup> Deaf: to age 18--or to age 21 "if need exists."

<sup>22</sup> All children must be served as soon as they are identified as handicapped.

<sup>23</sup> Deaf children to be served at age four.

<sup>24</sup> 2-21 for blind, partially blind, deaf, hard of hearing.

<sup>25</sup> When programs are provided for pre-school age children they must also be provided for mentally handicapped children of the same age.

<sup>26</sup> For mentally retarded or multiply handicapped. Others, as defined in regulations. Compliance date established by regulations.

<sup>27</sup> 4-21 for hearing handicapped.

<sup>28</sup> The Texas Educational Agency is operating under the assumption that the law is mandatory, and has requested an opinion from the state Attorney General on this question. Compliance date is as established by state policy if the law does not specify a compliance date.

<sup>29</sup> Within the limits of available funds and personnel.

<sup>30</sup> 9/1/76 established by regulations.

<sup>31</sup> Permissive below 6 years.

<sup>32</sup> Permissive 3-4.

#### Definition of the kinds of mandatory legislation used by states:

Full Program Mandate:	Such laws require that programs must be provided where children meet the criteria defining the exceptionality.
Planning and Programming Mandate:	This form includes required planning prior to required programming.
Planning Mandate:	This kind of law mandates only a requirement for planning.
Conditional Mandate:	This kind of law requires that certain conditions must be met in or by the local education district before mandation takes effect (this usually means that a certain number of children with like handicaps must reside in a district before the district is obliged to provide for them).
Mandate by Petition:	This kind of law places the burden of responsibility for program development on the community in terms of parents and interested agencies who may petition school districts to provide programs.
Selective Mandate:	In this case, not all disabilities are treated equally. Education is provided (mandated) for some, but not all categories of disabilities.

The work performed herein was done pursuant to a grant from the Bureau of Education for the Handicapped, US Office of Education, Department of Health, Education, and Welfare. The opinions expressed herein, however, do not necessarily reflect the position or policy of the US Office of Education, and no official endorsement by the US Office of Education should be inferred.

INDIAN AND MIGRANT PROGRAMS  
SURVEY RESULTS OF HANDICAPPED CHILDREN IN HEAD START BY STATE \*

STATE	(a) Number of Programs Responding+	(b) Total Number of Children Reported Enrolled	(c) Number of Handi. Children Reported Enrolled	(d) % of Enroll- ment Reported Handi. Nov. -Dec. 1974	(e) Number believed to be handicapped but diagnosis has not been completed	(f) Percent believed to be handi. but has not been completed Nov. -Dec. 1974	(d) & (f) TOTAL percent reported handi. and believed to be Handi. Nov. -Dec. 1974
Alaska (1)	1	20	-	-	-	-	-
Arizona (12)	10	1022	48	4.70	56	5.48	10.18
California	2	361	15	4.16	20	5.54	9.70
Colorado (2)	2	186	13	6.99	5	2.69	9.68
Florida (2)	3	574	11	1.92	9	1.57	3.49
Idaho (3)	4	248	9	3.63	5	2.02	5.64
Illinois	2	129	14	10.85	1	.78	11.63
Minnesota (6)	6	391	19	4.86	-	-	4.86
Montana (7)	6	539	44	8.16	21	3.90	12.06
Nebraska (1)	1	19	1	5.26	1	5.26	10.52
Nevada (1)	1	126	20	15.87	9	7.14	23.01
N. Mexico (9)	6	399	16	4.01	2	.50	4.51
N. Carolina (1)	1	110	13	11.82	5	4.55	16.37
N. Dakota (3)	3	507	32	6.31	40	7.89	14.20
Oregon (1)	2	862	60	6.96	6	.70	7.66
S. Dakota (5)	4	410	64	15.61	18	4.39	20.00
Texas	2	1477	43	2.91	3	.20	3.11
Utah (1)	1	200	24	12.00	29	14.50	26.50
Washington (7)	3	102	4	3.92	2	1.96	5.88
Wyoming (1)	1	75	-	-	-	-	-
Survey National							
Totals	61	7757	450	5.80	232	2.99	8.79

\* Adapted from a chart originally presented in "Head Start Services to Handicapped Children" Third Annual Report to U.S. Congress, U.S. Department of Health, Education and Welfare, Office of Child Development, Washington, D.C., June, 1975.

( ) Number in parentheses indicates the number of Indian grantees in each state.

+ Indian Migrant Programs Division administers 70 Indian and 14 Migrant programs. The seven Indian grantees in Mississippi and Wisconsin are not included in the survey results.



## Joint Resolution

To provide for the establishment of the American Indian Policy Review Commission.

### CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that—

25 USC 174  
note.

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years, without apparent rational design and without a consistent goal to achieve Indian self-sufficiency;

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs to be conducted.

### DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

(a) In order to carry out the purposes described in the preamble hereof and as further set out herein, there is hereby created the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

American Indian Policy Review Commission.  
Establishment  
25 USC 174  
note.  
Membership.

(b) The Commission shall be composed of eleven members, as follows:

(1) three Members of the Senate appointed by the President pro tempore of the Senate, two from the majority party and one from the minority party;

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party; and

(3) five Indian members as provided in subsection (c) of this section.

88 STAT. 1910.  
88 STAT. 1911

(c) At its organization meeting, the members of the Commission appointed pursuant to section (b) (1) and (b) (2) of this section shall elect from among their members a Chairman and a Vice Chairman. Immediately thereafter, such members shall select, by majority vote, five Indian members of the Commission from the Indian community, as follows:

(1) three members shall be selected from Indian tribes that are recognized by the Federal Government;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.



None of the Indian members shall be employees of the Federal Government concurrently with their term of service on the Commission nor shall there be more than one member from any one Indian tribe.

Vacancies.

(d) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointment.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings: *Provided*, That at least one congressional member must be present at any Commission hearing.

(f) Members of the Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress, but they may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(g) The Indian members of the Commission shall receive compensation for each day such members are engaged in the actual performance of duties vested in the Commission at a daily rate not to exceed the daily equivalent of the maximum annual compensation that may be paid to employees of the United States Senate generally. Each such member may be reimbursed for travel expenses, including per diem in lieu of subsistence.

Investigation  
and study.  
25 USC 174  
note.

SEC. 2. It shall be the duty of the Commission to make a comprehensive investigation and study of Indian affairs and the scope of such duty shall include, but shall not be limited to—

(1) a study and analysis of the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government and Indian tribes and the land and other resources they possess;

(2) a review of the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians: *Provided*, That such review shall include a management study of the Bureau of Indian Affairs utilizing experts from the public and private sector;

(3) an examination of the statutes and procedures for granting Federal recognition and extending services to Indian communities and individuals;

(4) the collection and compilation of data necessary to understand the extent of Indian needs which presently exist or will exist in the near future;

(5) an exploration of the feasibility of alternative elective bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formation and program development;

88 STAT. 1911  
88 STAT. 1912

(6) a consideration of alternative methods to strengthen tribal government so that the tribes might fully represent their members and, at the same time, guarantee the fundamental rights of individual Indians; and

(7) the recommendation of such modification of existing laws, procedures, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purposes as set out above.

## POWERS OF THE COMMISSION

SEC. 3. (a) The Commission or, on authorization of the Commission, any committee of two or more members is authorized, for the purposes of carrying out the provisions of this resolution, to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Commission unless a majority of the Commission assent. Upon the authorization of the Commission subpoenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or the Commission, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

25 USC 174  
note.

(b) The provisions of sections 192 through 194, inclusive, of title 2, United States Code, shall apply in the case of any failure of any witness to comply with any subpoena when summoned under this section.

(c) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this resolution and each such department, agency, or instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(d) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

Confidential  
materials.

## INVESTIGATING TASK FORCES

SEC. 4. (a) As soon as practicable after the organization of the Commission, the Commission shall, for the purpose of gathering facts and other information necessary to carry out its responsibilities pursuant to section 2 of this resolution, appoint investigating task forces to be composed of three persons, a majority of whom shall be of Indian descent. Such task forces shall be appointed and directed to make preliminary investigations and studies in the various areas of Indian affairs, including, but not limited to—

25 USC 174  
note.

- (1) trust responsibility and Federal-Indian relationship, including treaty review;
- (2) tribal government;
- (3) Federal administration and structure of Indian affairs;
- (4) Federal, State, and tribal jurisdiction;
- (5) Indian education;
- (6) Indian health;
- (7) reservation development;
- (8) urban, rural nonreservation, terminated, and nonfederally recognized Indians; and
- (9) Indian law revision, consolidation, and codification.

88 STAT. 1912  
88 STAT. 1913

(b)(i) Such task forces shall have such powers and authorities, in carrying out their responsibilities, as shall be conferred upon them by the Commission, except that they shall have no power to issue subpoenas or to administer oaths or affirmations: *Provided*, That they may call upon the Commission or any committee thereof, in the Commission's discretion, to assist them in securing any testimony, materials, documents, or other information necessary for their investigation and study.

(ii) The Commission shall require each task force to provide written quarterly reports to the Commission on the progress of the task force and, in the discretion of the Commission, an oral presentation of such report. In order to insure the correlation of data in the final report and recommendations of the Commission, the Director of the Commission shall coordinate the independent efforts of the task force groups.

(c) The Commission may fix the compensation of the members of such task forces at a rate not to exceed the daily equivalent of the highest rate of annual compensation that may be paid to employees of the United States Senate generally.

(d) The Commission shall, pursuant to section 6, insure that the task forces are provided with adequate staff support in addition to that authorized under section 6(a), to carry out the projects assigned to them.

(e) Each task force appointed by the Commission shall, within one year from the date of the appointment of its members, submit to the Commission its final report of investigation and study together with recommendations thereon.

#### REPORT OF THE COMMISSION

25 USC 174  
note.

Report, sub-  
mittal to  
President  
of the  
Senate and  
Speaker of  
the House.

SEC. 5. (a) Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within six months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist six months after submission of said final report but not later than June 30, 1977. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

(b) Any recommendation of the Commission involving the enactment of legislation shall be referred by the President of the Senate or the Speaker of the House of Representatives to the appropriate standing committee of the Senate and House of Representatives, respectively, and such committees shall make a report thereon to the respective house within two years of such referral.

88 STAT. 1913  
88 STAT. 1914

#### COMMISSION STAFF

25 USC 174  
note.

SEC. 6. (a) The Commission may by record vote of a majority of the Commission members, appoint a Director of the Commission, a General Counsel, one professional staff member, and three clerical assistants. The Commission shall prescribe the duties and responsibilities of such staff members and fix their compensation at per annum gross rates not in excess of the per annum rates of compensation prescribed for employees of standing committees of the Senate.

(b) In carrying out any of its functions under this resolution, the Commission is authorized to utilize the services, information, facili-



ties, and personnel of the Executive departments and agencies of the Government, and to procure the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of compensation not in excess of the daily equivalent of the highest per annum rate of compensation that may be paid to employees of the Senate generally.

Sec. 7. There is hereby authorized to be appropriated a sum not to exceed \$2,500,000 to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the maximum amount authorized herein.

Appropriation.  
25 USC 174  
note.

Approved January 2, 1975.

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1420 accompanying H.J.Res. 1117 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 93-594 (Comm. on Interior and Insular Affairs).

#### CONGRESSIONAL RECORD:

- Vol. 119 (1973): Dec. 5, considered and passed Senate.
- Vol. 120 (1974): Nov. 19, considered and passed House, amended, in lieu of H.J.Res. 1117.
- Dec. 16, Senate concurred in House amendment with an amendment.
- Dec. 18, House concurred in Senate amendments to House amendments.



S. J. RES. 133 - PUBLIC LAW 93-580 - JAN. 2, 1975

S. J. RES. 133 - PUBLIC LAW 93-580 - JAN. 2, 1975



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# NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PENNSYLVANIA BUILDING, SUITE 326

425 13th STREET, N.W.

WASHINGTON, D.C. 20004

## COUNCIL MEMBERS:

JOSEPH UPICKSOUN, Chairman  
Barrow, Alaska — Eskimo

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## STAFF:

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Executive Director

DORRANCE D. STEELE  
Asst. Executive Director

PATRICIA CENTERWALL  
Admin. Assistant

March 17, 1975

American Indian Policy Review Commission  
Congress of the United States  
House Office Bldg., Annex #2  
2nd & D Streets, S.W.  
Washington, D.C. 20515

Dear Sirs:

The National Advisory Council on Indian Education would consider it a great honor to serve as the Task Force for Indian Education for the American Indian Policy Review Commission.

The Council is directed to:

- (1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;
- (2) review applications for assistance under sections 241aa to 241ff, 887c, and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;
- (3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;
- (4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;



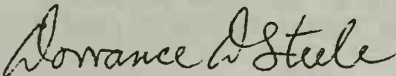
(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 241bb(b) of this title; and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

As you can see by the charges given to the Council by law, it would be ideal to this Task Force.

Please give NACIE your consideration.

Sincerely,



Dorrance D. Steele  
Acting Executive Director  
National Advisory Council on Indian Education

DDS:wj

UNITED STATES CONGRESS

American Indian Policy Review Commission  
Washington D.C. 20510

April 14, 1975

Mr. Dorrance D. Steele  
Acting Executive Director  
National Advisory Council on Indian Education  
425 13th Street, N.W. - Suite 326  
Washington, D.C. 20004

Dear Mr. Steele:

Thank you for your generous offer which would allow us to utilize the National Advisory Council on Indian Education as the Investigating Task Force on Indian Education for the American Indian Policy Review Commission. We are currently developing plans for the various task forces provided for in our authorizing legislation. While the final decision on whether or not to utilize certain personnel or organizations to conduct the task force work is that of the Commission members themselves, their discussions thus far indicate that the prospects of using organizations to accomplish the Investigating Task Force work is not being considered favorably.

The American Indian Policy Review Commission is a Joint Congressional Commission. The hearing record and statements of the Congressional members emphasize the Congressional nature of this study which has invited Indian participation. Section 6(b) of P.L. 93-580 authorizes the Commission "to utilize the services, information, facilities, and personnel of the Executive Departments and agencies of the Government ...". The Commission members may not feel that it is appropriate for NACIE as a Presidentially appointed council to conduct a review of education policies including those that NACIE has developed. The NACIE focus is at HEW and the Commission review would have to include the Bureau of Indian Affairs Education Office.

At this time I can only assure you that we will be utilizing information that you have gathered during the execution of your duties such as your evaluations, technical assistance data, and your annual reports.

Commission members, task force personnel and our Commission staff will be in touch with you when our research efforts and investigation begin. Thank you very much for your offer and interest.

Sincerely,

(Sgd) Ernest L. Stevens

Ernest L. Stevens  
Director

# American Indian Journal

INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW

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NOVEMBER, 1975

VOL. 1, NO. 2

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## Needed: A Philosophy of Education for American Indians

Lloyd Elm

The newly formed American Indian Policy Review Commission has eleven task forces that are charged with investigating, researching and writing the reports which are to become the core of the Commission Report to be completed in January, 1977. Task Force Number Five is "Indian Education." In the article below, I have outlined a direction for this three-member task force to follow to ensure that it will not retrace the unproductive steps already taken by many others.

For the past five years educators across the country, who have been actively involved in the education of American Indians, have mulled over the definition of the "special educational needs of Indian children." There have been conventions and workshops where the highest levels of educational intellect have been asked to list these "special

educational needs," and then in turn to design a model curriculum that would effectively deal with these needs. The accuracy and effectiveness of these efforts have been limited. After several frustrating experiences of participating in such "list making" activities, I realized why the process was not working as anticipated. They were operating under the false assumption that there exists a list of educational needs for all Indian children from all tribes living in all types of community situations.

A second reason why the process did not work is that it concentrated on statements of "problems" based on devastating historical statistics which have been collected by groups like us, before us, who were equally unsuccessful in defining the educational needs of American Indians.

To illustrate the absurdity of the process, I recall the time that a pile of data reflected that one's economic level was related to the average educational attainment level, which in turn could be related to the drop-out rate. The obvious question we asked was, "Why do they drop out?" The researchers before us had concluded that "the system was not relevant to the needs of the students." They recommended that the system be changed! Then we asked, "How did they propose to change it?" The answer given to this last question represents the crux of the problem.

The proposed changes were based on easing the pressures created by problems of educational failure. The extreme drop-out rate and the low frequency of continuation to higher education are examples of these problems. Consequently, the new programs that resulted from these recommendations derive from the obvious "symptoms" of the actual problem.

It is necessary to clarify the difference between "problem" and "need" at this point. A problem, such as the drop-out rate, is usually the result of a basic need not being met. A basic need can be described as any experience necessary to attain fulfillment. In order to achieve total fulfillment, there are a series of basic needs that must be satisfied. Included in this series of basic needs are physical needs, intellectual needs and spiritual needs. Total fulfillment cannot be attained if any one of these parts is excluded from the process that is attempting to lead to this end.

In the past two years it has become clear to me that one of the chief reasons why progress in American Indian education has been so slow is that people in positions to do something about it have been treating the "problems" and ignoring the basic educational needs of Indian children. What is more, in many cases, they have been trying to translate these problems into similar phenomena experienced in other ethnic communities. From the perspective of any ethnic group this cannot be done.

As the first step in the "recasting process," the Education Task Force of the American Indian Policy Review Commission should expand the very narrow and limited definition of education to that of a total "life process." This definition moves the parameters of the true meaning of education far beyond that of educational institutions and their traditional designs for learning. It means that first, the process of education begins at the instant individual life begins, and does not terminate until the "life" of that person ends. Second, it means that the process is necessary to life and an integral part of a person's total experience.

For example, the end product of respiration, another life process, is energy in a usable form. The end product of education is intellect in a usable form. Intellect can only be usable so far as a person has the physical, spiritual and psychological fortitude to put his ideas, wishes and other activities into action.

In other words, a person's values, attitudes and beliefs are formed from his whole life experience which is his "education." Hence, if every overt behavior that we exhibit is directed by our values, beliefs and attitudes, and if these arise from all of our experiences, and if one could say that the total sum of our experiences is our "education," then one could say that "education" is the total sum of our experiences that determine our values, beliefs and attitudes.

The sum total of the classroom experiences attained in the formal institutions of public education are not all of an Indian child's "education." They do not include those experiences which give rise to the attitudes, beliefs and values unique to American Indian cultures. It is because these things have been ignored by most forms of institutionalized education that education for American Indians has been unsuccessful. Consequently, until we broaden the definition of education to include all of life's experiences, the term "education" will inhibit the total fulfillment that it actually represents.

Having accepted this broader definition of education, then, we must construct a philosophy of education which can be used by Indian people throughout the country. Obviously, the philosophy will include concepts that are not part of the philosophy of traditional public school education. However, if we are going to make education relevant to American Indians, then we are going to have to include concepts that are compatible with American Indian philosophies.

The prime task, then, for the Education Task Force will be to identify the philosophical concepts that should be guiding Indian educational programs throughout the country — especially those that are divergent from concepts in the design of public education today. From these, those philosophical concepts that are *common* to all American Indians should be elected to form a model philosophy.



What I am recommending to the Educational Task Force of the American Indian Policy Review Commission is to completely stop reinventing the wheel by *not* beginning with an historical investigation of the "problems" of Indian education. I am proposing something different altogether — to develop a general philosophy of education which can be used by Indian people throughout the country.

I maintain that basic to the life support system of every Indian child (and I would suspect of all children) are things which stimulate the spiritual life, the intellectual life and the physical life of each child. Therefore, the definition of education must extend far beyond the confines of the public school classroom. It must include all of an Indian child's experiences that give rise to his primary attitudes, beliefs and values. If we can accept this as a basic premise and definition for the term "education," then all processes and programs developed will take into consideration the culture, traditions, philosophies and attitudes of American Indian people . . . and ultimately meet their needs.

The previous paragraph identifies a problem that has prevented the acceptance of "educational programs" by American Indian educators. The term "education" has been interpreted by American Indians as having a negative, or at least a conservative, connotation. This attitude is understandable when one becomes aware of the fact that the initial thrust of European mandatory education for American Indians was actually designed to "recast" the aboriginal people of this land into something different from what they were. The process was deliberately, and continuously, designed to gradually dissolve all spiritual, intellectual and physical aspects that represented the "way of life" that maintained these people prior to any European influence. The very first series of educational processes imposed on American Indians were instruments of cultural genocide. This fact has been the key force behind the present-day attitude that American Indian educators have toward public education. Therefore, it becomes the responsibility of contemporary American Indian educators to "recast" the present educational process into an instrument of cultural enrichment.

The process to be used by the Education Task Force in selecting the philosophical concepts to be used in the model philosophy is to "pool" the minds of those Indian people who have been dealing with the problems of Indian education over the past five years. Many of these individuals have not experienced public education and many have. In spite of the differences in formal education, there are several things which this group of people have in common. The most obvious of these is the "instinct of cultural survival." The exchange of ideas among this group of people has generated an acknowledgment of the fact that, unless something is done very quickly, the variety of cultures represented by American Indians are in danger of becoming something of the past. The pooling of such minds is essential to the production of a philosophy of education that can be converted to educational objectives and, in turn, to educational programs that will be relevant to the "special educational needs of Indian children."

At the present time, it is impossible to measure the impact that the American Indian Policy Review Commission will have on the future of American Indians. However, it is obvious that tremendous changes could occur as a result of the recommendations relayed to the Congress of the United States in January of 1977. The most basic characteristic of these recommendations is that they be representative of the traditional values, beliefs and attitudes that have sustained us as American Indians to this day.

# Indian Education Study

by

National Indian Education Association

## States, Finances & Education: Arizona

Of the eighteen school districts studied in Arizona, sixteen had over 80% Indian population and a number of these which were located on the reservation approached 100%. These school districts, particularly those serving the Navajo tribe in northern Arizona and the Apache reservations in eastern Arizona have many administrative and financial problems in common:

1. Very little or none of the land in these districts is taxable and most tax revenues come from taxable improvements on Indian land, such as pipelines, utility facilities, etc., usually owned by large corporations. These, however, do not constitute a substantial tax base in most cases, giving many of these districts an assessed valuation of under \$5,000,000. Local taxes in these districts contribute from 3 to 53 percent of the total revenues. In most of the districts local taxation is not a major source of revenue. Furthermore, bonding at a maximum capacity of 10% assessed valuation for school construction with such a low tax base is pointless since most structures currently needed would cost in the millions of dollars.

2. Maintenance and operation costs run high due to the isolation, vast expanse of land covered, and poverty of the populations served. Window Rock school district, which is typical of most of the reservation districts, documents these extra expenses as follows: Increased costs of health services for students which are not reimbursed by any state or federal plan is about \$23,775 per year. Labor costs for free lunch programs which reach 60% of the student population equal \$148,680 for 1974-75. Extra labor, supplies, and materials for their 30 school bus fleet is \$135,000 per year and extra administrative costs for trips to the county or state offices add \$23,000 per year. High numbers of temporary units, teacherages, and extreme variation in temperatures and weather, increase maintenance costs as much as \$60,900 per year. All these extra costs amount to more than 11% of the district's budget.

3. Funding patterns such as a heavy dependence on federal aid, meager state aid, deficit spending and a number of administrative problems are held in common by these districts. An expanded discussion of these follows.

The State of Arizona plays a large part in administration of public school finance for the districts covered in this study. First, the state determines to a large extent how much PL 874 monies the districts will receive. The PL 874 desk in the State Department of Education processes applications for impact aid based on the formula employing the national average per pupil cost. For

1974-75 this was \$510.17 per A student on the elementary level. In Montana, utilizing the comparable districts formula, some districts base their impact aid on as much as \$1,400 per A student.

Second, Johnson O'Malley funds for the school districts are received through state contract with the BIA area office. Contract negotiations for allocation of funds for the 1974-75 school year were not completed until mid-December of the past year, thus creating a funding crisis for several reservation districts.<sup>1</sup>

Third, each school district receives an amount of aid from the state. The sum total of this state aid accounts for approximately 40% of the general fund of the state. Sources of revenue for this fund are as follows: State sales tax, 41%; individual and corporate income tax, 24%; state tax on real property, 11%; state luxury tax, 7%; other sources, 17%.<sup>2</sup>

School districts in Arizona receive two separate allocations from the state: One for maintenance and operation and one for transportation. For the purposes of state aid, maintenance and operation includes all expenses of running a school district except transportation and a capital outlay category, which includes furniture and equipment, vehicles not primarily used for pupil transportation, textbooks, athletic equipment, remodeling and other improvements (both by contract and internal) site improvements, capital outlay for tuition students, and construction expenses including retiring of debts.<sup>3</sup>

In 1974 the state arrived at a new formula which gives a single amount of state aid for M & O to each district rather than the multiple categories of state aid used in the pre-1974-75 school years. This aid is based on a district's Budget Cost Level, a dollars-per-state-supported-classroom figure computed in 1974 which is used, with yearly alterations, to determine state support.

The state allocation formula operates as follows:

a. A district's 1973-74 revenues in the following categories are totaled:

1. basic grant
2. financial assistance
3. equalization aid
4. county aid
5. estimated auto lieu tax receipts
6. state permanent school fund
7. district M & O levies
8. cash balance

b. From the sum of revenues, transportation costs are subtracted to yield a Total Budget Cost Level.

c. The number of state supported classrooms is computed by dividing the total district population by 26 for elementary and by 24 for high school.

d. The Total Budget Cost Level is divided by the number of state supported classrooms to yield a Budget Cost Level per classroom.

The state also calculated a figure based on state average cost of education per classroom which is called the Basic Support Level. This is a dollars per classroom figure which acts as a ceiling for state aid. If a district's Budget Cost Level/classroom is higher than the Basic Support Level/classroom the latter is used instead of the BCL in the final calculation as follows:

- e. Take Budget Cost Level Per Classroom or Basic Support Level (whichever is lower). Multiply by number of state supported classrooms.
- f. Total assessed valuation x \$1.30/100 equals local tax contribution.
- g. Subtract local tax contribution from product in calculation "e", equals state aid.

In years subsequent to 1973-74 the original Budget Cost Level and Basic Support Level have been utilized with 7% increases yearly. Also, during the five years after initial implementation of this formula an equalizing factor is added to the Budget Cost Level to eventually make it equal to the Basic Support Level. This is done by sub-



tracting the BCL from the BSL. One fifth of the difference is added to the BCL the first year, one fourth the second, etc. until 1978-79 funding year when all of the difference will be added and all districts will theoretically be funded at the Basic Support Level. Each year before that, however, districts with a BCL lower than the BSL lose thousands of dollars in state aid that will never be made up.

None of the districts in Arizona with high Indian student population had a BCL in 74-75 that reached the Basic Support Level. This is not because the cost of education is lower in Indian districts than non-Indian ones. In fact, Indian districts rank among the highest in cost per student. The budget cost levels in the Indian districts are low because they are not based on cost but on revenue. And only certain kinds of the regular yearly revenue into an Indian district are counted in the calculation. District taxes for maintenance and operation are counted but PL 874 monies, which are in lieu of taxes are not counted. Since most Indian districts studied had high PL 874 contribution to their revenues and low tax contribution in 1973-74, the resulting low budget cost levels are not surprising. A recalculation of the budget cost levels of the highly impacted Indian districts including their 1973-74 PL 874 revenues gives all the districts a BCL/classroom close to or above the Basic Support Level.

Secondly, state support is given on the basis of number of classrooms, arrived at by dividing enrollment by 24 for high school and 26 for elementary. Districts with less than these figures per classroom lose out in this calculation. Peach Springs school district with 145 students actually had 9 classrooms (one for each grade K-8) instead of the 5.58 arrived at in the state formula. Thus it gets only two-thirds the state aid it would if a sparsity factor were included in the calculation.

Using 1973-74 revenue figures as a base with yearly adjustments causes difficulties as well. The 7% yearly increases allowed in the BCL assume a uniform relatively low yearly increase in cost, not at all characteristic of the extremely high growth and cost increases in reservation schools (19.09% average cost increase in 1974-75 over 1973-74).<sup>4</sup> Secondly, inequities inherent in the original calculations are perpetuated. Districts starting

out with low budget cost levels due to meager revenues and negative cash balances continue to have the lower budget cost levels, while rich districts having a high cash balance and M & O levies revenue in 1973-74 continue to be funded on a higher level.

The separate state transportation aid is arrived at through a calculation by the state as to the district's need based on number of miles traveled and number of students served. The total state appropriation for that year is divided up among the districts, each one's share being weighted as to their comparative need. In the 1974-75 school year the districts were funded at 90% and in 1975-76 are anticipated to be funded at 60% of their entitlement.<sup>5</sup> Furthermore, the entitlement itself is considerably less than the district's stated need in transportation. JOM, PL 874, and local funds are used heavily by the districts in this expense category.

Probably the most controversial aspect of public education funding for Indians in Arizona is the use of Johnson O'Malley funds for basic education costs rather than according to the strictly supplemental intent of these funds. The regulations under which JOM can be used for basic funding include the following: (1) minimum 70% Indian enrollment in the district, (2) as a means of meeting minimal state standards for education, and (3) only after a district tax rate equal to the state average is levied and the average state aid is given.<sup>6</sup>

All of the Indian districts studied had well over the 70% Indian enrollment required. There are, however, no minimum standards of education in Arizona and in their absence, JOM is used as a means to balance whatever budget is arrived at for that year. The cost per pupil in the districts using JOM basic for 1974-75 in the adopted budgets ranged from \$1,014 to \$7,745 per student. The latter figure reflects a \$1,453,244.94 capital outlay expense for a new high school requested to be paid from JOM basic funds.<sup>7</sup>

There is a tendency in JOM basic districts to stick to a tax rate very close to the minimum allowed for JOM. Of the 12 districts studied, only 6 had a rate above \$4.00/100 in 1974-75. There is little motivation, however, to raise the tax rate in districts with assessed valuations of \$1,000,000 or less as a number of those studied are.

Doubling the tax rate would increase that category's contribution to the budget by only 3 or 4%. Of the 12 districts studied which received JOM basic, only 4 received state aid equal to or above the state average in 1974-75.

Given the fact that all other revenues coming into the districts are limited by formulas, and local taxation is a meager source of revenue, JOM is looked to as the only flexible figure in the budget and is used in many cases to make it balance. Theoretically then, JOM is the first figure reduced given any increased revenues in other categories. In districts where costs are kept to the most necessary and to a minimum, this practice seems to be in keeping with the intention of allowing the use of JOM as basic support only in exceptional circumstances.

There are, however, attempts to abuse JOM basic. In Chinle school district's adopted budget almost \$1,000,000 in JOM went into M & O Revenues that totaled in excess of the M & O expenditures by \$242,000. The latter figure—intended to be the local taxes contribution in M & O—was deducted from the proposed local tax contribution of \$619,000 in transportation and capital outlay, clearly a case of attempting to use JOM to supplant local taxes. Likewise, the previously mentioned figure of almost \$1.5 million JOM for furniture and equipment might be questioned as well. Furthermore, if the JOM basic districts had been funded at the Basic Support Level in 1974-75, the resulting increase in state aid would total nearly \$3.5 million. Since any increase in revenues brings a corresponding reduction in JOM basic, the \$3.5 million could have been saved for supplemental programs had the districts been funded up to the Basic Support Level by the state.

Another factor in Arizona financing of public education is deficit spending. Arizona state law permits a school district to spend all of its adopted budget, whether or not expected revenues are actually received. Registered warrants, which banks are required to honor at 6% interest, are issued by the school districts for payment of bills.<sup>8</sup>

A number of districts studied had deficits for over three years running despite the state regulation requiring that a deficit must be made up in taxes the next year. Ganado school district indicated on the adopted budget that \$1,436,161 was going to be raised

from local taxes to erase the deficit but set a tax rate that could generate less than \$600,000, thus perpetuating the deficit.

A major source of the deficit for 1974-75 will result from districts overprojecting their JOM revenues. Budgeted amounts exceed actual receipts by over \$1,000,000 in two districts.

There are finally a number of administrative situations that render hardship and confusion to the effort to finance public education for Indians in Arizona. One of these is the practice of paying tuition for students bussed out of one district to another district's public schools.

The actual numbers of students who will be going out of district is never known when expenditures are budgeted, thus creating a category highly susceptible to overexpenditure. Students frequently transfer back and forth during the school year in between two districts, further complicating the situation financially.

Secondly, a number of schools studied in Apache County were classified as elementary schools but have authorization to teach high school subjects. Since no regular high schools were available to the students in these districts this arrangement was the only alternative to boarding school. The school district suffers, however, in its funding since it is only an elementary district, no tax may be levied to bond for high school construction.

The northern reservation districts do pay taxes for the high school district which encompasses all of Apache County. However, the high school funded by these taxes is located in the southern part of the county and serves the non-reservation population there.

There is at least one case of obvious gerrymandering of a school district. In the middle of Ganado School District sits the El Paso Natural Gas compound with a total assessed valuation of \$3,000,000. It was made into Navajo Compressor Station school district to serve its 30 students, avoiding incorporation with the surrounding deficit-ridden, predominantly Indian school district.

Finally, administrative difficulties arise from the existence of two parallel systems of education for Indian children in Arizona: The public schools and the BIA schools. There are a number of reasons why they co-exist,

the most obvious being that this is a transitional period between the earliest years when all Indian children were educated only in BIA boarding schools to a time in the future when, if trends continue, most will be educated in public schools. There are other reasons why Indian children continue to attend boarding school. Some live too far from school to be transported daily by bus and some live too far from a road to walk to the bus. Other children attend boarding school because of conditions at home that make it impossible to study or to get ready early enough in the morning. Others attend because of troubles at home.



BIRD GOD

Problems arise, at least administratively, since these are parallel rather than cooperative systems. Interviews with district superintendents and tribal education personnel revealed some of the following:

- (1) BIA equipment is not utilized to aid public education in such situations as a road grader going only as far as the BIA bus goes along a road where the public school bus goes farther.
- (2) BIA classrooms stand empty nearby public schools which are often at double their capacity or housed in temporary quarters.
- (3) Children sent to boarding school because of problems at home often run away and appear in the public school during the school year creating a difficult administrative and educational situation.
- (4) Public schools sponsor para-professional personnel to go to college to be certified only to find some of them afterward taking better paying jobs in the BIA system. This lack of cooperation is particularly difficult to understand given the fact that many of the problems facing public schools are due to their having to accommodate a large influx of students resulting from their leaving the BIA system.

The evidence suggests that Arizona's Indian districts are in severe financial difficulty and confusion. The state, in that it controls a large portion of the district funding, must assume considerable responsibility.

The current method of determination of impact aid yields meager revenues for the Indian districts studied. The alternative method of requesting PL 874 aid based on comparing the impacted district with five similar school districts would probably result in much larger PL 874 allocations.

Secondly, there is an Arizona state law that a district must take up a deficit the following year in taxes. This is not being enforced in the districts studied where several have had increasingly larger deficits for 3 years running. Nor has the state contributed extra financial assistance to bring the districts out of their financial crisis.

Third, state aid in Arizona is allocated by a plan that lacks a concept of the total range and level of the cost of education in a given district.

State aid does not cover all the operational expenses as defined by the school district's budget. There is a deliberate reduction of responsibility which excludes the categories of textbooks, furniture, equipment, remodeling and renovation—none of which a school district can do without.

Furthermore, the level of support does not bear any correlation to the need of the district. All but one of the Indian districts studied having costs per pupil higher than the state average in 1973-74 had less than the state average support in 1974-75. State revenues have not been sufficient to fund all the districts in the state at the Basic Support Level with \$1.30/100 local contribution for the first four years of implementing the new plan. As mentioned previously, the intention is to equalize the Budget Cost Levels and Basic Support Level by the 1978-79 school year. Implied in this is the acknowledgment that all districts need to be funded at this level. The fact that the 1974-75 elementary Basic Support Level was only \$800 per child with an average state cost per child of \$902 the previous year indicates that the Basic Support Level is not even a minimum cost of education figure. It seems obviously unfair, therefore, to compute the state aid of districts with costs per pupil higher than the state average with a Budget Cost Level less than the Basic Support Level. The State of Arizona has saved itself millions of dollars by funding impacted districts on Budget Cost Levels, which are low from leaving out their large PL 874 contribution from the calculations. Inasmuch as



many of these are Indian reservation districts with exceptionally high extra costs and negative cash balances, this seems a poor choice for economizing. An alternative would be to fund all the districts at the Basic Support Level and subtract a higher local contribution, perhaps \$1.50/100 instead of the present \$1.30/100 times the assessed valuation of the district. This way a rich district with a high assessed valuation and having a significant budgetary alternative in raising local tax rates would take the lesser share. By doing this, the Arizona state plan would take on a concept of state aid being given to a district inversely to its ability to generate local funds as is done in the Alaska plan.

At the local level, remedies for the current financial situation are not promising. In a few districts where costs have reached more than twice the state average, some budgetary controls on spending might help. However, a significant increase in revenue from local taxation is precluded, even at confiscatorily high rates, by the low tax bases of most of the districts. Furthermore, even if local funding were achieved, it would not likely be in the interest of Indian self-determination in public education. It is the taxpayers who traditionally have been acknowledged to have the major voice in decision making for the district. This usually means the local home owners, the parents of the children attending school in the district. However, in almost all of the Indian districts studied 80-90% of the taxes were paid by large corporations, whose interests are not necessarily the same as those of the parents and students of the school district. As previously mentioned, PL 874 monies are not seen by the districts as having been contributed by the Indian community in lieu of taxes and therefore do not carry a corresponding acknowledged right for policy determination.

Notes to Arizona Report

<sup>1</sup> *Survival of the Public Schools*, Navajo Division of Education, Window Rock, Arizona, 1975, pp.56,57.

<sup>2</sup> Department of Finance, Arizona State Department of Education.

<sup>3</sup> From State of Arizona, Department of Education, School District Annual Budget, July 1, 1974 to June 30, 1975, Adopted Budget, Form ADF-RS-7 (4-15-74)

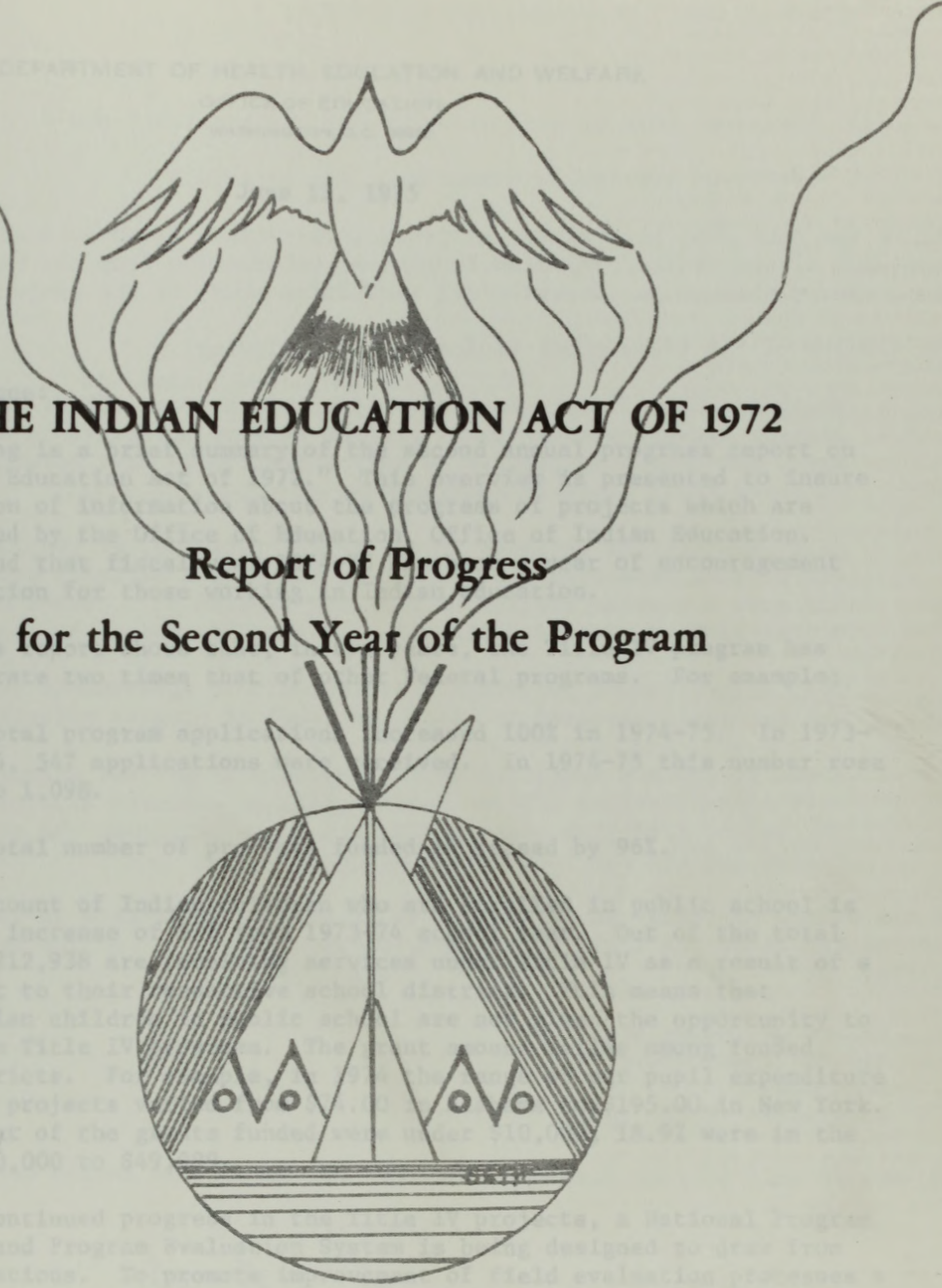
<sup>4</sup> Computed from Adopted Budgets of 16 Arizona School Districts

<sup>5</sup> Interview with Charlotte Duvall of the Arizona State Department of Education.

<sup>6</sup> Johnson O'Malley Regulations, *Federal Register*, Vol. 39, No. 163, August 21, 1974.

<sup>7</sup> From the Adopted Budget, 1974-75 for Monument Valley High School District.

<sup>8</sup> *Survival of Public Schools*, p. 10.



# THE INDIAN EDUCATION ACT OF 1972

## Report of Progress for the Second Year of the Program

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE/Office of Education

# THE INDIAN EDUCATION ACT OF 1907

## Report of Progress

### for the Second Year of the Program



U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
WASHINGTON, D. C. 20202

June 11, 1975

Dear Colleague:

The following is a brief summary of the second annual progress report on the "Indian Education Act of 1972." This overview is presented to insure dissemination of information about the progress of projects which are administered by the Office of Education, Office of Indian Education. You will find that fiscal year 1974-75 has been a year of encouragement and inspiration for those working in Indian education.

The progress report shows that, in two years, the Title IV program has grown at a rate two times that of other Federal programs. For example;

- (1) total program applications increased 100% in 1974-75. In 1973-74, 547 applications were received. In 1974-75 this number rose to 1,098.
- (2) total number of projects funded increased by 96%.

The latest count of Indian children who are enrolled in public school is 334,495, an increase of 57% from 1973-74 school year. Out of the total enrollment 212,938 are receiving services under Title IV as a result of a Part A grant to their respective school district. This means that 121,587 Indian children in public school are not given the opportunity to benefit from Title IV programs. The grant amount varies among funded school districts. For example, in 1974 the range of per pupil expenditure in Title IV projects varied from \$74.00 in Alabama to \$195.00 in New York. Fifty percent of the grants funded were under \$10,000; 18.9% were in the range of \$20,000 to \$49,999.

To insure continued progress in the Title IV projects, a National Program Monitoring and Program Evaluation System is being designed to draw from local evaluations. To promote improvement of field evaluation processes a series of three five-day Quality Control Conferences and ten three-day Field Capability Improvement Conferences were held. The conference participants identified the following technical assistance needs:

- (1) information about how to interpret Federal Regulations, Office of Indian Education application and reporting requirements;



(2) advice concerning evaluation skills and services; and

(3) advice on curriculum development and materials.

Due to the fact that an analysis of project operations is an evaluation component of the Office of Indian Education, information from the field was gathered through an interview and monitoring study of the projects.

The results of the field study indicated the following:

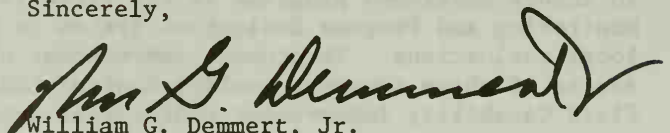
- . Regarding the effectiveness of project operations, 90% of the project directors rated their project as very effective in some ways; 50% rated the program as very effective in most aspects; 6% rated their projects ineffective.
- . As to whether the projects were properly targeted, of the 93% of the project directors who responded, 60% gave a definite yes, 33% gave a guarded reply, one director replied no. Parent committee members responded 54% yes, 28% guarded, and 6% no responses.
- . Cost effectiveness information indicated that investments in staff and materials appeared to raise the level of program effectiveness.
- . Areas of concern mentioned most frequently by project directors were communications 22% and funding 17%; of concerns expressed by the parent committee members 75% were in reference to the school system and the 23% to severity of need.

If the Office of Indian Education can be of further assistance in providing information about the Title IV program, please contact \_\_\_\_\_ office by writing to:

Office of Indian Education  
400 Maryland Avenue, S.W.  
Room 4047  
Washington, D.C. 20202

We look forward to your continued interest and support in Indian education.

Sincerely,



William G. Demmert, Jr.  
Deputy Commissioner  
Office of Indian Education

The Indian Education Act of 1972 (IEA) is now in the second year of its existence. Little could be reported at the end of the first year to address the effectiveness of field projects in meeting the special educational needs of Indian children. Information at that time included only things as kinds and numbers of projects funded, funding levels, numbers of students involved, staffing, distribution of funds by States, and. However, no data were available on which to evaluate successes or failures of project activities or to indicate the reactions of Indian communities, school staff people, and Indian parents to the intent and scope of the Act.

## The Indian Education Act of 1972

### Report of Progress

### for the Second Year of the Program

During the course of the second year, a systematic data collection effort was implemented to collect information which would form a major part of a data base on the Indian Education Act Program. Information from the data base would be used to reflect (1) the impact of IEA on the educational needs of Indian pupils, (2) an analytical data on goals and objectives of projects and the degree to which such goals and objectives have been met, (3) a basis for comparison between the first year and second year of program operation, and (4) data sufficient to draw valid conclusions and on which decisions and actions can be based at various levels of administration and operation.

This report is a summary of the data gathered on the second year of IEA operations, a review of the first year, a comparison of the 2 years, conclusions drawn from analyzed data, and recommendations for change.

Prepared by  
Office of Indian Education  
U.S. Office of Education

April 14, 1975

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Caspar W. Weinberger, Secretary  
Virginia Y. Trotter, Assistant Secretary for Education  
OFFICE OF EDUCATION  
T.H. Bell, Commissioner

The following information is being furnished to you for your information:

Enclosed for you are two copies of the following:

Notwithstanding to the fact that the above information is being furnished to you for your information, it is not to be used for any other purpose without the express written consent of the Department of Education.

Very truly yours,

The Latin American Act of 1915

and for 1915, the Department of Education has been authorized to issue a report of the progress of the work of the Department of Education in the Latin American field for the year 1915.

For the Second Year of the Project

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April 14, 1915

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Enclosed for you are two copies of the following:

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Cesar W. Weinberger, Secretary  
Virginia Y. Trotter, Assistant Secretary for Education  
OFFICE OF EDUCATION  
F.H. Bell, Commissioner

## PREFACE

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## SUMMARY

Parent committees, school personnel, and Indian communities strongly support the continuation, further development, and expansion of the Indian Education Act (Title IV of P.L. 92-318).

Indian people, Indian communities, and Indian educators recognize the precedent set for Indian control by the IEA legislation as a major step toward self-determination. The long overdue involvement of Indian people in Indian education is mandated by the Act. It has now become important that the education of Indian pupils is closely related to, and largely determined by, Indian people.

Indian control is a major feature of the Act, and it implies changes which are shaped by the Indians' viewpoints of quality education and not by the viewpoints of the molders of Federal Indian policy. The success or failure of the changes implemented by IEA projects can now be measured by Indian standards of excellence as well as by traditional public educational standards. The fact that public school education has not to date met the needs of Indians is supported by the following items of information:

1. 37 percent of the adult Indian heads of households have not completed grade school; only 14 percent have completed high school; only 2 percent have completed 4-year degree programs, and only 1 percent have completed graduate school.
2. The illiteracy rate among the Navajos, the largest Indian tribe, is 90 percent.
3. The average educational level for all Indians under Federal supervision is less than 6 school years.
4. Among Indian school youth the dropout rate ranges from 45 percent to 62 percent; 50 percent of the total number of Indian pupils have high rates of absenteeism.

The new awareness of the Federal Government of the need for changes in curriculum, attitudes, teaching techniques and relevant materials, as evidenced by the enactment of the Act, has afforded the opportunity to address the special needs of Indian pupils in public schools. The already growing Indian interest in the education of Indian children has been intensified and expanded by the intent of the law and by the requirement for Indian involvement.



Relevant Indian education shaped by Indian participation in determining program focus, identifying staff, selecting activities, and evaluating the effectiveness of the project is the main thrust of the Act. It is the only legislation which permits delving into the areas of Indian culture and tradition in order to reinforce pride in Indian heritage and to create a more worthwhile relationship between the Indian child and the school system in which he or she learns.

After 2 years of operation, a systematic analysis of the Act was conducted to provide a picture of the progress attained by projects supported under this legislation. From data collected by field study and conferences, the following major conclusions can be drawn:

1. Data profiles now show that Title IV IEA has moved as far in 2 years as other Federal programs have progressed in 4 years. In developmental aspects, the IEA program now closely resembles past Federal programs but is moving at a faster pace. Over the first 2 program years, there has been a movement away from general academic remediation and social adjustment activities (such as health-centered, dropout prevention programs) to Indian cultural and child-centered (such as self-concept and Indian pride) activities. There has been less emphasis on staff development programs and on vocational guidance programs and more emphasis on social motivation programs and academic achievement through motivation and attitude changes. Finally, more emphasis has been placed on attempting to recruit and hire teachers and aides of Indian ancestry. To summarize, there has been a movement away from making the Indian child fit the school system and toward making the school system conform to the Indian child's needs.
2. Projects are addressing the needs of the Indian community and are acquiring local Indian community support. Because both Indian community and school system personnel are involved in most projects from the needs assessment through the final evaluation, the entire project develops as a venture which is based on coordination of effort to achieve a specific goal. This manner of operation could either develop supportive attitudes, or bring out dichotomies of philosophies, attitudes, and concepts which render both groups ineffective. It appears from the data that supportive attitudes are being developed in local IEA projects.
3. There was marked agreement between parent committee members and project directors on the apparent effectiveness of the Title IV projects. In rating effectiveness on a scale from "very effective" to "very ineffective," responding parent committee representatives rated their projects as follows:

Very effective	- 25% )
Effective	- 26% )

Somewhat effective	- 32% ) 83%
Rather ineffective	- 2%
Very ineffective	- 2%
Non-response	- 12%

The ratings by project directors were:

Very effective	- 21% )
Effective	- 30% ) 91%
Somewhat effective	- 40% )
Rather ineffective	- )
Very ineffective	- ) 6%
Non-response	- )

4. Communication problems exist between parent committee members and project directors. Interpretations of terms vary greatly among these two groups and this leads to a multitude of problems in ensuring that the thrust of Title IV projects are directed toward the needs and requirements of the local communities. Parent committee members do not speak in categories, while project staff do. For example, a parent committee will speak of "problems with the school system." Project staff will speak of problems of "staffing," "curriculum," "operations," etc.

A standard terminology or translation mechanism should be developed for use among all levels of participation in the IEA program.

5. The most effective projects are those which invest the largest dollar amounts on special staff -- professional, paraprofessional, and non-professional. Staff members who have special abilities to perform successfully in areas that address the special needs of Indian students, and who have the necessary qualities of awareness and sensitivity to Indian students, are the most effective components in IEA projects.
6. A high priority need, expressed by parent committee members, project directors, and school administrators, is for information and interpretation of Federal rules and regulations. Requests for information cover such areas as funding, applications, evaluation, reporting, and information about what other IEA projects are doing with successful results. Parent committees are in special need of information as to their total area of function, the school systems in which they work, and what activities are being successfully carried on by other projects.

In addition to technical assistance, the foregoing suggests a need for some type of project information exchange among Title IV projects -- a network of dissemination of project descriptions



A REVIEW OF THE INDIAN EDUCATION  
ACT OF 1972

Over the past decade, human problems created by years of neglect and discrimination, coupled with increased militancy, have generated public concern for the plight of U.S. citizens of Native American descent.

The problems included poor health and environmental conditions, low income, unemployment, illiteracy, lack of self-awareness and a multitude of other ills that befall a minority population that has been oppressed for generations.

One long-range solution to the problems was determined to be special attention to the education of young Indian Americans and, to a lesser extent, of adults within that population. While there was some scattered legislation that was applicable to assist in the education of selected groups of Indian Americans, there was no direct focus on special and specific problems. For the most part, this legislation categorized American Indians into general educationally disadvantaged groupings without recognizing the unique or specific educational needs that had to be served.

In June 1972, the Congress passed, and the President signed into law, the Indian Education Act of 1972. This legislation specifically directs Indian participation in Indian education, and provides for programs to be developed on local levels to meet the most urgent local needs. Five provisions form the basis of the IEA program:

- Part A: Provides for grants to local education agencies to develop and carry out elementary and secondary school programs specifically designed to meet the special educational needs of Indian pupils.
- Part B: Provides for grants to State and local educational agencies (LEA's), Federally supported elementary and secondary schools for Indian children, and to Indian tribes, organizations, and institutions to support planning, pilot and demonstration projects to develop, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children. Also provided for are educational enrichment programs and services, preparation of teachers of Indian students, information dissemination and program evaluation.



Part C: Provides for grants to State and LEA's and to Indian tribes, institutions, and organizations to support planning, pilot, and demonstration projects to develop, test, and demonstrate the effectiveness of programs for providing adult education for Indians, for the dissemination of information concerning educational programs, services, and resources available to Indian adults, and the evaluation of the effectiveness of Federally assisted programs in which Indian adults may participate.

Part D: Provides for the establishment of The Office of Indian Education, the appointment of a Deputy Commissioner of Indian Education and the National Advisory Council on Indian Education.

Part E: Provides for grants to prepare teachers of Indian children, with preference granted to Indians. Part E also provides for recognition of certain schools on or near reservations to be classified as "LEA's."

Under the provisions of the legislation, programs can be developed and conducted in ways which preserve the heritage and cultural integrity of the students and communities being served.

Charged with directing and monitoring the program, the Office of Education (OE) responded by:

1. Funding the development and conduct of special instructional programs geared to the needs of Indian students.
2. Ensuring the participation of parents and the Indian community in determining and stating those needs.
3. Funding special counseling and tutorial services, including training of nonprofessionals from among the populations being served.
4. Funding developing inservice training for teachers to become more understanding of, and sensitive to, the special educational needs of Indian students within the multicultural school system.

## SUMMARY OF REPORT ON FIRST YEAR OF PROGRESS

In fiscal year 1973, many eligible districts and organizations did not apply for funding because of time constraints caused by the late release of impounded funds.

Under Part A, 435 school districts (LEA's) were funded. These districts included 59 percent of all enrolled Indian pupils in the 2565 eligible districts. These LEA's, located throughout 31 states, were awarded nearly \$11 million.

Ten Indian-controlled school districts located on or near reservations in seven states received awards totaling \$547,618 under the 5 percent set-aside provision of the Act for such districts.

Part B grant awards for \$5 million were made to 51 Indian tribes and organizations, as well as to State and local education agencies. These grants were for planning, model and demonstration projects in such areas as bilingual-bicultural education, compensatory education, cultural enrichment, dropout prevention, and vocational training. (21 States)

Under Part C of the Act, 10 grants were awarded for Indian adult education in the amount of \$500,000. Nine States had Part C projects approved.

In general, the needs identified by funded districts were reflective of the special educational needs of local communities. A majority of the grantees under Parts A and B designed their projects to attempt to meet the most compelling of these needs. Overall, the proposed expenditures made during this first year were reasonably consistent with the proposed objectives, with some exceptions, especially in the area of staff development.

### Restatement of Fiscal Year 1973 Recommendations

Four major considerations emerged from data collected on the first year of operation of Title IV projects which relate to possible top-level administrative action to increase the effectiveness of the Act.

Simply stated these considerations were:

1. Make provision for technical assistance to local school districts in the area of program development and evaluation.

2. Make provisions for research grants to cover three key areas:
  - (a) Financing and targeting of special programs
  - (b) Developing teaching methods and techniques for use by both Indian and non-Indian teachers in teaching basic skills and cultural heritage to Indian students
  - (c) Developing appropriate instructional materials to be used along with the new methods and techniques
3. Increasing efforts to recruit, train, and place Indian teachers and administrators in public school systems for instructional improvement and cultural enrichment.
4. Expanding the potential benefits of the Act to include:
  - (a) Preschool children
  - (b) Districts with fewer than 10 Indian pupils (possibly by combining grants to districts which are close enough geographically to develop interdistrict programs)
  - (c) Out-of-school youth

#### Actions Taken on Fiscal Year 1973 Recommendations

Several activities were undertaken to respond to these recommendations. First, with respect to technical assistance, several projects were undertaken. A series of conferences were held at various strategic locations around the country to provide technical assistance relating to critical areas as identified by Parts A, B, and C grantees. Topics discussed at these conferences included rules and regulations, role of the parent committees, educational evaluation of projects and funding criteria under the various provisions of IEA. Additionally, a project was initiated to develop a media kit for parent committee members dealing with the primary educational and administrative issues confronting them in the conduct of their responsibilities.

The recommendation relating to the provisions for grants in certain areas was partially implemented by completely revising and expanding the rules and regulations for Parts B and C of the Act to include a substantial priority list for applicants to respond to. These priorities included and emphasized provisions for early childhood education, teaching methodology, and the development of instructional materials and techniques. A study, entitled The Impact of Federal Funds on Local Educational Agencies Enrolling Indian Children, was also undertaken and completed. This effort included an extensive analysis of the financing of Indian education at the

local level.

Efforts to recruit, train, and place Indian teachers and administrators in the public school system were hampered by the lack of available funding for the teacher training provisions of IEA. However, one of the priorities developed for the Part B regulations and suggested in the fiscal year 1976 budget was a teacher training component, and a substantial, but certainly inadequate, number of projects will be funded from this budget.

Expansion of the potential benefits of the Act to include preschool children and a wider range of eligibility for districts and out-of-school youth were not possible in the one year period between the first progress report and the current one. This was because developing and promulgating recommendations for legislative change is a lengthy and difficult process and generally takes longer than the time available between these two reports. However, planning efforts for legislative changes have been initiated and these activities will be vigorously pursued.



COMPARATIVE OVERVIEW OF FISCAL YEARS  
1973 AND 1974 TITLE IV IEA PROGRAM

Project Funding, Entitlement, and Eligibility

The second year of operation of the Title IV Indian Education Act Part A-LEA program brought an increase of project funding from \$11 million (approximately 10.25 percent of the entitlement) to almost \$23 million for Part A-LEA grants to public school districts. The \$24 million represents approximately 7.3 percent of the total entitlement of \$310,999,995 for Part A-LEA projects.\*

As shown in table I, the number of eligible school districts increased by 56 from 2,565 to 2,621 or a 2 percent increase. However, in spite of the small increase in the eligible districts, the numbers of LEA's applying for grants doubled. For the 1973-74 school year 547 Part A-LEA applications were submitted; for the 1974-75 school year 1,098 applications were received. Of the 1,098 applications, 854 were approved and funded.

TABLE I

A COMPARISON OF ELIGIBLE DISTRICTS, APPLICATIONS, AND FUNDING  
FY 1973 AND FY 1974

Total Eligible Districts		Total Applications		Total Funded	
<u>1973-74</u>	<u>1974-75</u>	<u>1973-74</u>	<u>1974-75</u>	<u>1973-74</u>	<u>1974-75</u>
2565	2621	547	1098	435	854
2% increase		100% increase		96% increase	

\*Full entitlement refers to the Part A total authorization. This amount is the State per pupil expenditure multiplied by Indian pupil enrollment summed across all eligible districts. Just over 10% of the total authorization was awarded to districts submitting approved applications in fiscal year 1973. The final grant award amount is based on a proportional reduction which adjusts total expenditures to the appropriate funding.

For the non-LEA's 35 applications were received in fiscal year 1974; of these 23 were approved in the amount of \$1,190,476. In fiscal year 1973 10 non-LEA grants were approved in the amount of \$547,618.

### Grants and Funding

The growth in the numbers of projects and numbers of Indian students involved during the short term of operation is an indication of the acceptability of the intent of the Act and an active recognition of the need for the Act by both the grantee agencies and the Indian communities.

TABLE II  
FY 1973 AND 1974 GRANTS AND FUNDING

	Number of Grantees		Amount of Funding	
	1973	1974	1973	1974
Part A	436	854	\$11,000,000.00	\$23,809,518.54
Non-LEA's	10	23	547,618.00	1,190,476.00
Part B	51	136	5,000,000.00	12,000,000.00
Part C	10	42	500,000.00	3,000,000.00
Totals	507	1,055	\$17,047,618.00	\$39,999,594.54

The mandated Indian involvement in grants made under the provisions of the IEA has provided the means for Indian parents to have, for the first time, a voice in the direction of their childrens' education. Conscientious school administrators are seeing the Act as a possible means for providing a higher quality and more relevant education for Indian pupils - an education that is meaningful to Indians within the framework of their chosen relationship to their own tribal culture and to the current majority society. Many project administrators feel that this opportunity to improve Indian education is enhanced and enlarged by the participation and direction lent by Indian parent committees.

### Indian Pupil Enrollment

The increase in the numbers of students enrolled in funded districts in 1974-75 (see table III, last column) is 75,713. This represents a 57 percent increase over 1973-74. However, it should be kept in mind that the 1974-75 enrollment figure of 212,938 represents the total number of Indian

TABLE III

## COMPARABLE ANALYSIS OF PART A PROJECTS FOR FISCAL YEARS 1973 AND 1974

State	1973-74 Districts Funded	1974-75 School Districts Funded	Percent Increase	FY 1973-74 Funding	FY 1974-75 Funding	Percent Increase	(In Funded Districts) 1973-74 Indian Student Enrollment	(In Funded Districts) 1974-75 Indian Student Enrollment	Percent Increase	FY 1973-74 Expenditures Per Indian Pupil	FY 1974-75 Expenditures Per Indian Pupil	Decrease In Number Of Students	Increase In Number Of Students
Alabama	9	3	300	\$ 1,532,982.28	\$ 32,165.78	100	81	433	435	\$143	\$ 74		352
Alaska	24	25	177	1,440,024.19	3,706,936.07	142	10,757	18,371	170	75	202		7,614
Arizona	17	49	104	1,077,715.45	2,217,633.05	154	1,273	19,292	11	85	103		2,190
California	1	122	617	3,191.00	1,223,819.22	1004	32	10,466	722	100	117	32	9,193
Connecticut	4	8	100	47,616.22	114,092.75	140	594	1,025	73	80	111		431
Colorado	2	5	150	14,844.49	57,610.30	288	190	1,541	185	78	106		351
Florida	4	1	100	35,502.37	82,770.57	133	583	1,003	72	61	83		420
Georgia	1	2	100	14,899.67	161,326.32	983	150	1,250	733	99	129		420
Idaho	1	3	200	18,912.42	60,304.90	219	219	505	131	86	119		1,100
Iowa	2	5	150	13,611.27	99,439.54	631	174	952	447	78	104		286
Kansas	2	8	700	6,320.02	308,997.34	4790	85	3,011	3442	74	103		778
Louisiana	1	9	350	10,588.74	51,582.42	387	148	520	251	72	99		2,926
Maine	2	1	100	51,888.33	71,544.71	38	527	527	100	98	136		372
Maryland	1	1	100	113,915.42	4,501.67	100	38	38	100	118	136		38
Massachusetts	13	85	554	669,760.21	839,544.22	637	1,179	6,285	433	97	134		5,106
Michigan	18	41	128	480,590.30	1,190,175.19	778	6,710	8,703	30	100	137		1,993
Minnesota	28	34	21	18,790.53	872,825.67	82	6,039	8,094	85	80	108		2,055
Montana	4	11	175	15,625.59	167,056.90	989	233	1,533	558	81	109		1,100
Nebraska	1	11	1000	1,391,986.25	294,617.77	1786	202	2,625	1199	77	96		295
Nevada	13	14	8	330,222.67	1,920,983.99	38	19,642	19,937	2	71	96		295
New York	10	12	20	832,390.11	662,314.22	100	2,202	3,394	54	150	195		1,192
North Carolina	17	19	12	198,038.36	1,145,461.09	58	12,871	13,752	7	55	83		881
North Dakota	13	17	31	29,029.39	371,286.75	87	2,845	3,923	38	70	105		1,078
Ohio	2	2	24	1,650,210.19	37,642.14	30	381	363	94	76	104	18	24,322
Oklahoma	162	205	350	76,502.97	4,296,846.94	160	25,826	50,148	153	64	186		24,322
Oregon	2	9	350	267,931.90	267,931.90	250	808	2,048	100	95	137		1,260
South Carolina	17	29	71	484,073.86	825,453.17	170	6,579	8,827	100	74	94		58
South Dakota	4	4	400	155,235.44	75,350.07	100	2,358	2,915	100	66	92		2,248
Texas	6	10	67	155,235.44	263,458.35	70	2,358	2,915	100	66	92		556
Utah	29	2	200	699,674.57	1,523,920.56	118	7,907	12,755	61	88	103		80
Virginia	1	67	131	1,507.97	3,140.34	108	22	34	55	69	92		12
West Virginia	22	28	27	421,688.38	749,332.22	78	4,495	5,761	28	94	130		1,266
Wisconsin	5	5		84,961.45	94,793.42	12	974	742		87	128	231	
Wyoming	435	854	96	\$10,952,366.00	\$23,809,518.54	117	35,297	212,938	57	\$81	\$117	281	75,713

pupils enrolled in the school districts having Title IV projects. This does not necessarily imply that all 212,938 pupils were actually served by Title IV projects; it means only that the opportunity to participate was available to the eligible children. The latest count of all Indian children of school age who are in public school systems (334,495) less the total number who are eligible for Title IV benefits because they are in funded districts (212,938) indicates that 121,587 public school Indian children are not being afforded the opportunity to participate in Title IV programs. The nonparticipants in Title IV programs are either attending school in ineligible LEA's or in eligible districts that have not applied for Title IV funds.

The total count of Indian pupils enrolled in public schools has drastically increased in some school districts in the 2 years since implementation of the Title IV IEA program. Eleven states (Alabama, Arkansas, California, Hawaii, Kentucky, Louisiana, Maine, Michigan, Mississippi, Oklahoma, and Pennsylvania) have more than doubled their enrollments since the fiscal year 1973 Indian pupil counts were made.

Two outstanding examples of this escalation can be noted in table IV, which shows the reported Indian pupil enrollment for each State. The total Indian enrollment in Alabama for fiscal year 1975 is more than 16 times greater than that for fiscal year 1973. The fiscal year 1975 total Indian enrollment in Louisiana is more than 20 times greater than the number reported for fiscal year 1973.

While many influences undoubtedly contribute to such changes, two major factors, closely related to the language and intent of the Act, should be considered.

One contributing factor is the Title IV definition of Indian. Under this definition, Indian pupils (such as urban, terminated and State-recognized Indians) who were formerly ineligible to participate in Bureau of Indian Affairs programs for Indian pupils can be served under the provisions of Title IV.

Another factor may be that school district administrators and members of the Indian community view Title IV funding as a highly desirable means of meeting the special needs of Indian students. As a result of this attitude, school administrators become eager to serve as many students as possible and search for those who qualify to be served under the Act. Parents and children who are Indian, but cannot qualify for tribal enrollment or Bureau of Indian Affairs benefits because they do not meet blood quantum requirements, have recognized a source of educational support and have claimed their Indian identity in order to participate in the Title IV program.



TABLE IV  
REPORTED INDIAN PUPIL ENROLLMENT BY STATES

State	Number of Eligible Districts	Projects Funded	Indian Pupil Enrollment		
	FY 1974	FY 1974	FY 1973	FY 1974	FY 1975
*Alabama	7	3	81	801	1,301
Alaska	32	25	15,888	18,990	61,928
Arizona	121	49	26,798	28,847	31,469
*Arkansas	11		519	448	1,246
*California	582	122	15,417	18,250	30,854
Colorado	34	8	2,309	2,377	2,627
Connecticut	19		303	209	445
Delaware	3		55	99	85
D.C.	1		18	25	28
Florida	38	5	2,390	2,137	2,806
Georgia	10	1	408	326	368
*Hawaii	1		0	0	73
Idaho	33	5	1,856	2,368	2,400
Illinois	23	2	2,204	2,059	2,059
Indiana	35		853	928	1,140
Iowa	16	3	664	822	833
Kansas	36	5	1,400	2,049	2,075
*Kentucky	3		44	251	384
*Louisiana	17	8	234	3,509	4,803
*Maine	17	9	239	601	686
Maryland	10	1	1,660	1,200	1,354
Massachusetts	16	1	278	459	459
*Michigan	150	85	4,554	7,827	13,015
Minnesota	117	41	9,660	10,170	11,385
*Mississippi	7		68	79	177
Missouri	21		934	918	872
Montana	80	34	10,795	12,036	11,207
Nebraska	28	11	2,826	1,958	2,082
Nevada	14	11	2,728	2,764	2,810
New Hampshire	2		23	13	23
New Jersey	13		290	216	224
New Mexico	28	14	21,883	23,074	23,964
New York	34	12	5,692	5,507	6,118
North Carolina	40	19	14,312	14,726	15,045
North Dakota	36	17	3,187	4,986	4,303
Ohio	18	2	1,017	1,004	942
Oklahoma	593	205	40,260	69,838	86,688
Oregon	50	9	2,367	3,570	3,919
*Pennsylvania			199	314	818

\*FY 1975 enrollments have more than doubled since FY 73.

State	Number of Eligible Districts	Projects Funded	Indian Pupil Enrollment		
	FY 1974	FY 1974	FY 1973	FY 1974	FY 1975
Rhode Island	10		158	210	199
South Carolina	11	1	395	391	415
South Dakota	70	29	7,956	10,139	10,343
Tennessee	8		193	154	233
Texas	60	4	2,502	2,849	2,549
Utah	30	10	4,447	4,367	4,226
Vermont	2		22	20	20
Virginia	22	2	937	1,060	1,024
Washington	169	67	12,635	15,408	18,114
West Virginia	5	1	172	126	128
Wisconsin	99	28	6,098	7,317	7,847
Wyoming	<u>10</u>	<u>5</u>	<u>1,219</u>	<u>1,189</u>	<u>1,382</u>
	2,829	854	231,147	288,984	334,495

#### Per Pupil Expenditure of Title IV Grant Award Funds

In fiscal year 1973, the range of per pupil expenditure in Title IV projects varied from \$61 in Idaho to \$150 in New York. The total per pupil expenditure from all sources ranged from \$670 in Idaho to \$1,650 in New York.

In fiscal year 1974 all figures as shown in table III reflect an overall increase in per pupil expenditure based on grant amounts and district enrollment figures, which is consistent with the increased appropriation. The range varied from \$74 in Alabama to \$195 in New York.

The largest increase in Title IV per pupil expenditure occurred in Alaska, where \$59 more per pupil was expended during the second year of operation. This was because total per pupil expenditure rose more between fiscal years 1973 and 1974 than it did in any other State. Two States, New York and Wyoming, increased their per pupil expenditure by more than \$40 per pupil. Eleven States showed increases of more than \$20. Only one State reported an increase of less than \$20 (\$18 in North Carolina). The relationship between size of grant and number of Indians with the recipient LEA for fiscal years 1974 and 1975 is shown in table V.

#### Size of Grants

During both years of the Title IV operation approximately 50 percent of the grants funded were under \$10,000. The most noticeable change in funding levels was in the \$20,000-\$49,999 range; 14.7 percent of the 432

TABLE V

RELATION BETWEEN SIZE OF GRANT AND NUMBER OF INDIANS WITH THE  
RECIPIENT LEA, FY 1973 AND FY 1974

Size of Grant	N U M B E R O F I N D I A N S I N L E A ' S														T O T A L L E A ' S			
	1-25		25-49		50-99		100-199		200-499		500-999		1000-4999		5000-9999		FY 73	
	FY73	FY74	FY73	FY74	FY73	FY74	FY73	FY74	FY73	FY74	FY73	FY74	FY73	FY74	FY73	FY74	No.	%
Under \$1,000	15	6															15	9.5
\$ 1,000-\$4,999	31	112	55	112	38	16		1									124	28.8
5,000-9,999			1	35	40	114	42	21	1	2							84	19.5
10,000-19,999		2			3	38	55	120	38	14	0	2	2				98	22.3
20,000-49,000							1	27	50	122	11	12	1				63	14.7
50,000-99,000									1	12	22	35	5	3			28	6.5
100,000-199,000											3	13	10	22			13	3.0
200,000-499,999													4	6	1		5	1.2
500,000-1,000,000														2	2	3	2	0.5
Total LEA's	46	120	56	147	81	170	98	169	90	150	36	62	22	33	3	3	432	100.0
Percent	10.6	14.0	13.0	17.0	18.8	19.9	22.7	19.9	20.8	17.6	8.3	7.2	5.1	4.0	0.7	14	100	100

grants were made on this level in fiscal year 1973. In fiscal year 1974, 18.9 percent of 854 grants were funded in this range. Except for a slight drop in the percentage of grants funded under \$1,000 (from 3.5 percent in fiscal year 1973 to 0.7 percent in fiscal year 1974) very little difference appears in the proportional funding by level. During both years 11 percent of the total grants exceeded \$50,000.

As in fiscal year 1973, districts with larger enrollments of Indian pupils received larger grants.

In fiscal year 1973, the largest number of grants (98) was made to districts with Indian pupil enrollments between 100 and 199 students, and ranged from \$5,000 to \$20,000. In fiscal year 1974, the largest number (114) of grants fell in the \$5,000 to \$10,000 category, and were awarded to districts with Indian pupil enrollments between 50 and 99 students.



## APPLICATIONS

A total of 1681 applications for Title IV funding was received for the program's second year. Of these, 1133 were requests for Part A funding; 438, for Part B funding; and 110, for Part C funding. These applications represented increases over the first-year applications of 100.7 percent, 19 percent and 51 percent for Parts A, B, and C, respectively.

### Part A Summary

Applications were required to include a statement of needs relevant to the intended clients of the project. In the Part A-LEA applications, the three most frequently identified needs were (1) personal or social needs relative to self-concept, self-image, or image of self as an Indian, (2) background inadequacies in terms of materials, supplies, texts, or library materials, and (3) curricular inadequacies in the area of Indian studies. Part A-LEA applicants' program objectives were responsive to these identified needs, the three most often proposed objectives being (1) to develop Indian studies curriculums, (2) to improve self-image or concept of self as an Indian, and (3) to develop general academic curriculum or materials.

Creation of new services was the chief purpose of 57.9 percent of the Part A-LEA applicant projects, while 20.3 percent proposed not to create new services but rather to intensify, improve, or extend existing services. Another 19.5 percent proposed both to create new services and to improve existing services.

As to the grade levels served by Title IV projects, over half the projects were either kindergarten through twelfth grade (K-12) or first through twelfth (1-12). The rest proposed serving specific grade categories between kindergarten and the twelfth grade. More than 71 percent of the programs were intended to serve off-reservation Indian populations, over 14 percent were intended to serve on-reservation Indian populations, and over 12 percent were intended to serve both.

### Part A: Comparison of First Year's Applications and Second Year's Applications

The number of fiscal year 1974 Part A-LEA projects is 50.9 percent larger than the first year's total of 435. A comparison of the needs

identified in the 2 years' applications reveals some changes in relative emphasis, as shown in table VI for those needs which were identified in more than 15 percent of the applications. In the second year's applications, there were proportionately far fewer mentions of (1) needs for social adjustment or acceptance, (2) understaffing, (3) staff lack of knowledge and understanding of Indians, and (4) inadequacies relative to counseling programs or vocational and career guidance. On the other hand, there were proportionately far more mentions of (1) educational achievement needs relative to low motivation or negative school attitude, (2) curricular inadequacies in mathematics or remedial mathematics, (3) lack of teachers and aides of Indian ancestry, (4) inadequate equipment, (5) inadequate materials, supplies, texts, or library materials, and (6) inadequacies in terms of tutorial programs.

A comparison of the objectives proposed in the first and second year Part A applications also shows differences in relative emphasis. (See table VII.) Proportionately fewer applications mentioned objectives in (1) improving social adjustment or life skills, (2) improving self-image or concept of self as an Indian (although the percentage of second year applicants who proposed this objective was still very high: 46.6 percent), (3) language arts/remedial language, or general communication skills, (4) speech, drama, or performing arts, (5) career education, and (6) staff enlargement. On the other hand, a few objectives were emphasized to a proportionately much greater extent in the second year's application: (1) Indian studies, (2) staff work with Indian consultants, and (3) development of curriculum or materials. The latter three emphases may signal in part a consolidation of project efforts into fewer, more critical areas of focus for Indian children. There is the strong suggestion that much of the school district management and the Indian communities believe that a strong direct relationship exists between Indian studies (with Indian input) and the improvement of Indian students' self-image, attendance, and academic achievement.

### Rejection of Applications

Of second year Part A-LEA applications, 248 were rejected; the most frequent reason was too little Indian community involvement (at least 84 denials). Table VIII gives the reasons for denial in the 182 cases which were analyzed.

TABLE VI

CHANGES IN RELATIVE EMPHASIS OF FREQUENTLY IDENTIFIED NEEDS:  
COMPARISON OF PART A APPLICATIONS FOR FY 1974 AND FY 1975

Needs Identified	Percent of Funded Applications For FY 1974	Percent of All Applications For FY 1975	Changes
Personal or Social Needs:			
Social Adjustment/Peer Acceptance	43.2	9.5	(33.7)
Self-Concept/Image/Image as Indian	50.3	55.6	5.3
Educational Achievement Needs:			
Dropout Rate	31.7	24.0	(- 7.7)
Absenteeism	22.5	17.6	(- 4.9)
Low Grades	31.3	36.7	5.4
Low Test Scores	23.0	16.9	(-6.1)
Low Motivation/Negative School Attitude	.5	23.9	23.4
Curricular Inadequacies:			
Reading/Remedial Reading	9.4	27.5	18.1
Math/Remedial Math	5.3	15.8	10.5
Indian Studies/Culture	53.8	50.0	(-3.8)
Staff Inadequacies:			
Understaffed	32.6	11.1	(-21.5)
Lack of Knowledge & Understanding of Indians	28.5	11.3	(-17.2)
Lack of Teachers and Aides of Indian Ancestry	.7	18.0	17.3
Background Inadequacies:			
Equipment	19.5	30.5	11.5
Materials, Supplies, Texts, Library Materials	27.4	64.2	36.8
Special Services Inadequacies:			
Counseling Program/Vocational- Career Guidance	46.9	29.7	(-17.2)
Community/Parent Relations	26.7	21.8	4.9
Tutorial Program	1.4	21.8	20.4

TABLE VII

CHANGES IN RELATIVE EMPHASIS OF FREQUENTLY PROPOSED  
OBJECTIVES: COMPARISON OF PART A APPLICATIONS FOR FY 1974 AND FY 1975

Objectives	Percent of Funded Applications For FY 1974	Percent of All Applications For FY 1975	Change
Social Adjustment, Counseling Program Development:			
Improve Social Adjustment/Life Skills	29.9	11.5	(-18.4)
Improve Self-Image/Concept of Self as Indian	54.0	46.6	(- 7.4)
Curriculum Development, Objectives:			
Language Arts/Remedial Language/ General Community Skills	38.2	15.0	(-23.2)
Reading/Remedial Reading	31.7	27.2	(- 4.5)
Math/Remedial Math	19.5	15.7	(- 3.8)
Speech/Drama/Performing Arts	25.5	.9	(-24.6)
Indian Studies	30.6	48.8	18.2
Career Education	20.9	7.4	(-13.5)
Staff Development:			
To Be Enlarged	65.1	29.0	(-36.1)
To Receive Training	16.6	17.6	1.0
To Work With Indian Consultants	22.3	31.8	9.5
To Employ Paraprofessionals/Aides	24.8	25.3	.5
To Improve Community Relations/ School-Family Communication/ Attitude Toward School	26.4	22.8	(- 3.6)
To Develop Curriculum/Materials	12.9	35.1	22.2

TABLE VIII

DENIAL OF APPLICATIONS FOR FY 1974 FUNDING

Reasons for Denial	Number
Application Incomplete	23
Application Ineligible	11
Monetary Arrangements Unacceptable	4
Proposal/Narrative Weak	20
Evaluation/Dissemination Lacking/Vague	30
Indian/Community Involvement Low	84
Low Priority/Not Worth Funding	2
Other	8
Total Cases Analyzed	182



## PERFORMANCE REPORTS

Table IX shows the tabulation of the required reporting on accomplishment of project objectives by Part A-LEA projects for fiscal year 1973. Virtually all projects reported complete accomplishment of their objectives. However, these reported goal attainments were determined by a variety of means, depending on local level interpretation and application of the language of the Act and Federal rules and regulations.

The law specifies that "appropriate objective measurement of educational achievement" be adopted for annual evaluation and that the "extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students..." also be reported. It is further stipulated by the legislation that policies and procedures "will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee...." Because of the lack of more specific guidelines, project performance reports were not consistent in focus, process, time and effort involved, quality of data or qualifications of evaluative personnel.

The development of a program monitoring and process evaluation design which can be used by all projects for reporting will contribute greatly to the validity and completeness of evaluation information and will furnish a better base for reporting degree of project goal achievement.

TABLE IX

ACCOMPLISHMENT OF OBJECTIVES BY TYPE OF OBJECTIVE - PART A  
FIRST YEAR PROGRAMS (FY 1973)

Type of Objective	# Districts Having This Objective	Districts Reporting Full Accomplishment This Objective	
		Number	Percent
Staff Development	292	280	95.9
Staff Increase	299	268	89.6
Curriculum Development	369	344	93.2
Equipment and/or Materials	321	306	95.3
Meeting Health Needs	160	138	86.3
Teacher Aides/Paraprofessionals	162	148	91.4
Counseling	323	310	96.0
Tutoring	219	210	95.9
Language Development	85	79	92.9
Communication Skills	154	137	89.0
Bilingual Education	29	26	89.7
Fine Arts/Crafts	101	96	95.0
Social Adjustment	265	253	95.5
Recreation/Physical Education	41	41	100.0
Other Objectives	1	1	100.0

## EVALUATION IMPROVEMENT EFFORT

Because IEA emphasizes local program evaluation, the national Program Monitoring and Program Evaluation System is being constructed so as to draw its data from local evaluation designs to the maximum feasible extent. It is therefore imperative that the local evaluation designs meet certain standards of quality; for example, the processes and products of the projects must be specified in detail and the means of measuring the specified processes and products must be described.

Although all funded fiscal year 1974 Title IV projects assured in their application that program evaluation would be done, in many cases these designs were far from complete by the fall of 1974. Moreover, there was no standard methodology for carrying out program evaluation -- the lack of which reflects the wide variations in evaluation practice in the field of education in general.

In order to offer means of improving field evaluation processes, two series of conferences were developed -- a series of 3 five-day Quality Control Conferences and 10 three-day Field Capability Improvement workshops.

### Quality Control Conferences

Invitations to participate in the series of three Quality Control Conferences were sent to the 60 largest Part A-LEA projects. The general purpose of these conferences, each of which built upon the previous conference experience, was to instruct the participants in evaluation methods and to reach agreement among them on a reasonable, practical, and feasible plan for gathering and reporting evaluative information into the national system. Overall, 44 projects actually participated. These combined projects represented \$8,295,951 (or 34.8 percent) of Part A-LEA funding and 69,832 (or 32.8 percent) of all Indian students covered by fiscal year 1974 Part A-LEA projects. The first conference, held in October 1974, dealt with the concepts of evaluation and needs assessment and with the rationale for the national evaluation system design. The second conference, held in November 1974, emphasized the techniques of evaluation design and measurement. Assignments pertinent to the national system were completed between the conferences. The third conference, held in March 1975, provided an opportunity for detailed review and refinement of fiscal year 1974 evaluation designs and of evaluation plans for fiscal year 1975; the conference concluded with statements of intent by the participants concerning the types of data to be reported by their projects and schedules for delivery of those data for the first National Report by October 30, 1975.



Participants were asked to make overall evaluations of the Quality Control Conferences; these are shown in table X.

#### Field Capability Improvement Conferences

It is the clear intent of IEA that there be local assessment of needs, local determination of program content and methods of delivery, and local evaluation of Title IV programs. Since many projects are staffed by persons new to these responsibilities, a series of 10 three-day training conferences were conducted in strategic locations around the Nation. Representatives of 165 projects from 25 states participated in these conferences in which the main topics were needs assessment and program evaluation. Over 61 percent of the participants were Indians or Alaskan Natives. Participants studied and practiced needs assessment and evaluation methodologies, using their own projects as frames of reference. Several participants desiring to reinforce their learning came to two separate conferences, although the agendas were the same; and several projects sent additional staff members to a subsequent conference after attending an initial one. At the end of the conference, 59 percent of the participants responded to a conference evaluation questionnaire. Of these responses, 44.6 percent gave their conference an overall rating of "very useful," 48.9 percent "somewhat useful," 5.0 percent "not very useful," and 1.5 percent gave no overall rating. No one rated his conference "not at all useful."

The participants' perceived needs for technical assistance to their projects were also assessed informally; the results of the assessments are described below.

#### Needs for Technical Assistance

During the two sets of conferences participants were asked to identify and discuss their projects' most important needs for technical assistance. Results of these informal needs assessments are shown in Table XI -- grouped according to categories suggested by analysis of the individual project responses. There are 10 categories of kinds of need and 3 categories of ways in which the needs should be met (i.e.. training, information-giving, and advice-giving). Overall, these projects most needed information about how to interpret the applicable Federal regulations and the Office of Indian Education application instructions and reporting requirements. The second most frequently identified need was for advice concerning evaluation skills and services. The third most frequently identified need was for advice on curriculum development or materials.



TABLE X

PARTICIPANT EVALUATION OF USEFULNESS OF QUALITY CONTROL CONFERENCES  
(By percentage of those responding)

	Denver I	Denver II	Albuquerque
Very Useful	56.4%	60.0%	72.2%
Somewhat Useful	31.0%	40.0%	27.8%
Not Very Useful	12.6%	0%	0%
Not At All Useful	0%	0%	0%
Responses	32	20	32
Non-Responses	14	15	3

TABLE XI

NUMBER OF RESPONDENTS IDENTIFYING EACH NEED AS  
AMONG THEIR PROJECTS\* THREE HIGHEST PRIORITY NEEDS FOR TECHNICAL ASSISTANCE

Projects' Technical Assistance Needs*	Part A - LEA's				Part A - Non-LEA's				Part B				Part C				Totals				
	Info	Advice	Training	Total	Info	Advice	Training	Total	Info	Advice	Training	Total	Info	Advice	Training	Total	Info	Advice	Training	Total	
Interpretations of (a) Fed. Regs. pertaining to Title IV, (b) OIE application instructions, and (c) OIE reporting requirements	30			30	1			1	11			11	2			2		44		44	
Evaluation skills and services	7	22	3	32		2	1	3	2	10	9	21		8	1	9		9	42	14	65
Curriculum Development on Materials	8	11		17	2	4		6	1	11	2	14		1	10	2	13	10	26	4	50
Program planning development, implementation, management, and needs assessment (if not included under other needs)	4	13		17			3	3		8	4	12			1	1		4	22	7	33
Proposal/application writing	1	5	4	10	1	1		2		16	2	18		1		1		2	23	0	31
Improvement in staff skills (if not included under other training needs)	1		10	11			4	4	1	11	1	13			3	3		2	11	18	31
Parent Committee on Advisory Board functions	1	11	8	20			1	1			3	3						1	11	12	24
Information about what other projects are doing	8			8	2			2	3			3		1		1		14		14	
Improving community-school relations; Board - Staff relations; parent committee - LEA relations		10		10						1		1			1	1		11	1	1	12
Financial management accounting/bookkeeping																		1	5	5	11
TOTALS	56	73	25	156	6	7	10	23	19	61	25	106	4	20	7	31	67	161	67	315	
				100%				100%				100%				100%				100%	
Number of Respondents				63				8				31				11					113

\*These categories of need were developed from the responses in order to estimate their commensalities

## Introduction

Information on project operations is a necessary evaluation component of the Indian Education Act. In order to produce more valid and complete field operations data than has been collected in the evaluation of other Federal programs, and to convert it into program information in a timely manner, a prototype and reporting system was designed to be utilized in 1974-75. In the interim between the years 1973 and 1974, information from the field was gathered through an interview and monitoring study of Indian Education Act Projects rather than the usually used mail survey.

## Description of the Study

Core information interview schedules were developed which were expandable according to the size and nature of the project. Three forms were directed toward all projects; these addressed the director, the staff, and the parent committee.

The interview schedule for project directors covered several areas of special information:

1. Biographical
2. Background information about the district, such as the directors' schedule, school organization, pupil enrollment, Indian enrollment, number of schools with Indian enrollment, and Federal funding participation
3. Project objectives, activities, and participants
4. Components of needs in the district
5. Variations in the interactions of staff, parent committee, and project directors in carrying out the IEA program
6. Interviewers' comments on quality of data obtained during the interview

The staff member questionnaire sought data similar to that obtained from the project director. The parent committee chairperson interview schedule was parallel to the project directors' questionnaire in that it

sought a description of the parent committee members' awareness of the objectives, descriptions of how the parent committee works, and details on the parent committees' participation in IEA project operations and evaluation. The parent committee questionnaire also sought comparable information in terms of their relationships with those of the staff and the project director. In all cases, information about the quality of the data was obtained from the interviewer.

The three survey instruments used with Parts B and C projects were very similar in structure to those used for Part A projects. The major difference between the two sets of instruments was that the instruments for Parts B and C were designed to obtain data relating to nonpublic school system administration, whereas the instruments for Part A were designed to collect data relating to public school system organizational structure and administration procedures.

A random selection was made of almost 30 percent of the questionnaires for the establishment of coding categories and formulation of the data for automated processing. During this review process, the quality of the data was verified and the review indicated that the data was in excellent condition.

A stratified sample consisting of 105 Part A-LEA projects was selected to be interviewed along with all 63 B and C projects. (The stratification of Part A projects was made on the basis of size by dollars with the exception of Alaska, where the basis was the percentage and number of children as well as dollar amounts.) The number of interviews increased proportionally with the dollar amount of the project.

## Results of the Study

The analysis of the field study data was completed primarily with two goals in mind. The first was to estimate the effectiveness of the project; the second was to provide descriptive information about the way in which projects are planned, operated, and evaluated. For this report, results relating to the first goal will be examined. National projections were drawn for Part A, but simple frequencies were used for Parts B and C projects because of the inability to describe the national population of these types of grantees. Selected analyses involving major questions have been summarized for this report.

Perhaps the most important item on both the project director forms and the parent committee forms is the item which solicits a rating of success of the project. On that item, 90 percent of the project directors rated their project very effective, in at least some ways. Over 50 percent of these project directors rated the program very effective in most aspects. Only 6 percent rated their projects ineffective. (See listing on pages 2-3 of parent committee and project director project-effectiveness ratings.)



Responses were also elicited to the question of whether or not the projects were properly targetted. Of the 93 percent of the project directors who responded, 60 percent gave a definite "yes" reply, and 33 percent gave a guarded or mixed reply. Only one project director said "no." Parent committee members gave 54 percent "yes" responses, 6 percent "no" responses, and 28 percent mixed or guarded responses.

The project director, staff member, and parent committee members were each asked to list the objectives of the project. These objectives were coded under 20 categories.

Cross-tabulation of three sets of objectives indicate either a gross difference of usage in terminology or very uneven knowledge of the project across the three respondent levels. Areas where disagreement occurs appear to be those which are most subject to the influence of different perspectives; for instance, what might be considered as a counseling objective by the project director (since the counselor was hired by the project director to advise in dropout project activities) may be considered a cultural enlightenment objective to the teacher since its content is based upon tribal tradition. The same project may be considered to have a self-concept objective by the parent whose child is showing new self-opinions. Nevertheless, most of the projects appear to be concentrating on counseling, remedial, general academic, cultural enrichment, and self-concept objectives. The fiscal year 1974 objectives appear much more child-directed than those objectives in Title IV projects for fiscal year 1973.

In looking at the major problems discussed by the parent committee and the project director, it appears that different perspectives are influencing communication. The parent committee members and the project director appear to have different interpretations of what is discussed in meetings. The project directors tend to categorize problems, but the parent committee seems to classify many problems under the general category of program operation.

Table XII shows the categories identified as major problems and the percentages of parent committee members and project directors who perceived these as major problems.

Problems of communication similar to those found in the data in table XII are also found in the data relating to the areas of most concern to project directors and parent committee members. The areas of concern most frequently mentioned by project directors are communications (22 percent) and funding (17 percent). The parent committee members reported the school system (75 percent) (this could include both staffing and funding) and the severity of needs (23 percent).

The cost effectiveness information shown in table XIII indicate that when projects invested in staff and materials the additional funding appeared to raise the level of effectiveness.

TABLE XII

MAJOR PROBLEMS IDENTIFIED BY PARENT  
COMMITTEE AND PROJECT DIRECTORS

Major Problem	Parent Committee	Project Director
Staffing	7%	25%
Communication	14%	19%
Severity of Children's Needs	20%	20%
Community Interest	4%	14%
School System	17%	15%
Funding	5%	30%
Program Operations	15%	32%
Construction	3%	3%

TABLE XIII

COST EFFECTIVENESS ON PROJECTS JUDGED AS  
REACHING STUDENTS

	Very Effective	Effective	Somewhat Effective	
Personnel	25,604	24,397	22,611	13.2%
Fringe	22,250	22,452	22,250	
Travel	22,250	22,452	22,250	
Equipment	23,081	22,658	22,250	3.7%
Supplies	23,372	22,844	22,250	5.0%
Contractual	22,250	22,658	22,250	
Construction	22,250	22,844	22,250	
Indirect Charges	22,250	22,250	22,250	
Other	22,250	22,250	22,250	
TOTAL	205,557	204,805	200,611	
		.4%	2.1%	
		2.5%		

It should be noted that the percentage difference between "somewhat effective" and "very effective" in Personnel median expenditure is 13.2 percent.

The second most cost-effective expenditure is for supplies which shows a 5.0 percent increase as shown in table XIII.

## CONCLUSIONS

Four conclusions appear worthy of comment from the preliminary analysis the field study data:

1. The projects appear to be addressing the needs of the Indian community and although the early proposals appeared not to be based on good rapport with the community, the projects in operation after the second year seem to be acquiring community support.
2. To date there is strong evidence to suggest project effectiveness.
3. There is a large range of communication problems between the school administration and the Indian community. This indicates a need for more involvement of school administration and Indian community at the level of standardizing terminology and concepts for mutual understanding.
4. Financial support appears to be best spent in the area of special staff.

# "SO THAT ALL INDIAN CHILDREN WILL HAVE EQUAL EDUCATIONAL OPPORTUNITY"

USOE/BIA STUDY OF THE  
IMPACT OF  
FEDERAL FUNDS ON LOCAL  
EDUCATION AGENCIES  
ENROLLING  
INDIAN CHILDREN



## SUMMARY OF RECOMMENDATIONS AND ASSOCIATED FINDINGS

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Presented herein is the "Summary of Recommendations and Associated Findings" from Volume One of a Three Volume Report entitled "So That All Indian Children Will Have Equal Educational Opportunity: USOE/BIA Study of the Impact of Federal Funds on Local Education Agencies Enrolling Indian Children." The Study dated September, 1974, was performed under contract by ACKCO, Inc. of Boulder, Colorado.

This printing of the "Summary of Recommendations and Associated Findings" was financed by the National Advisory Council on Indian Education. The recommendations contained herein were endorsed by Resolution of the National Advisory Council on Indian Education at a regularly called meeting of the Council in Seattle, Washington on October 18, 1975.

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## SUMMARY OF RECOMMENDATIONS AND ASSOCIATED FINDINGS

We present here the summary of our study of Indian Education, in terms of our main recommendations, together with the conceptual framework and the empirical findings that lead us to these recommendations. The subject is vast and complex. In order to make it somewhat more manageable, we will consider five areas: educational effectiveness, community participation, Indian Education, management and finance. While this division seems natural, it is also artificial: none of the areas can really be isolated, and all recommendations should be thought of as being inter-related.

Within each area, we will present propositions, findings and conclusions, and recommendations. Propositions derive from our research into the state of the art and, for Indian Education, our research into the historical, cultural and legislative aspects. The propositions form the conceptual framework within which we interpret our findings, draw conclusions and offer recommendations.

While the subject of our study is Indian Education, we feel that much of our work can be applied to educational issues affecting other groups, including not just minority groups but the white middle class as well. The definition and implementation of a good educational system is a problem for all. We do not think in terms of Indian Education "catching up" to non-Indian education, but rather in terms of Indian Education forging ahead and serving as a model for

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other groups that wish to control their cultural destiny by playing an active role in the education of their children.

### Educational Effectiveness

After many decades of educational research, there is little agreement on what constitutes a sound education, let alone how to provide it and to evaluate it. The following propositions are basic to our thinking in this area:

Proposition 1 - "Equal Educational opportunity" as a goal for education is good yet it does not insure an adequate educational opportunity, particularly when it is thought of only in terms of bus-ing to achieve racial balance. An equal and adequate basic educational opportunity would be a more appropriate goal.

Proposition 2 - An "adequate basic education" must be defined. This should not be an ideal education, but rather a minimum education to be guaranteed to all children, Indian and non-Indian alike.

Proposition 3 - In a bi-cultural setting, there must also be an additional minimal education defined in terms of the particular culture involved.

Proposition 4 - No educational system can be effective in piecemeal. There must be a unified (but not uniform) and coherent program.

Proposition 5 - Since no existing educational system is consistently successful by any yardstick of measurement, radical changes may well be

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necessary and desirable. In particular, non-school-based education may be at least as important as learning in the classroom.

Our empirical work shows that the success of the Title I, Title IV and JOM programs are all viewed in terms of traditional (3 R's) subject matter. Since we know that Indian parents want their children to function well in both cultures, yet emphasize traditional subject matter we conclude that the current basic foundation programs are inadequate. We stress that an adequate basic education must be defined and that it must be guaranteed through the use of basic support money and compensatory programs. This is not an Indian issue, but a completely general issue that must be resolved before the specific educational goals of Indians can be dealt with properly. Not only is traditional subject matter most relevant in terms of program success, but it is stressed most in all three of the programs. There is both serious overlap among the programs and general confusion as to what program serves what purpose and for whom. We recommend the enactment of an Indian Education Omnibus Act, not to replace existing legislation but to clarify it. We further recommend that such legislation be concerned not only with program type, i.e., basic, compensatory, or cultural, but clearly address the issue of eligibility of the various types of institutional structures, i.e., federal school (BIA), public school (LEA) and Tribal educational institutions, i.e., Tribal community schools and Tribal educational agencies.

On pages xliv - xlvii we include an outline of major

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legislation that must be examined and clarified. The outline includes a column describing needed reform which should be thought of as tentative. We recommend that the study called for in S. 1017 center on developing and clarifying the legislative relationship in detail taking into consideration the issues, findings, conclusions and recommendations contained in this study.

#### Community Participation

Since educational goals cannot be agreed upon, there is no objective criterion for measuring educational effectiveness; one man's expert opinion becomes another man's heresy. We offer the following two propositions as a guide for alleviating this situation.

Proposition 6 - The community, thought of mainly in terms of parents but including students and all other concerned citizens, should be the final judge of educational effectiveness.

Proposition 7 - The community must be able to implement its educational goals and judgments. This requires control, rather than mere advisory status, with regard to curriculum and staff.

Our field work shows that effective PAC functioning leads to a more successful program. It also shows that PAC members are often inadequately informed of their own program, are very uninformed regarding other programs, and do not coordinate their activities with other PACs in the district. We conclude that PACs are the key to educational

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relevance and success, but that they are hampered by inadequate training and a lack of technical assistance. Indian energy in the community is diffused and fragmented rather than focused on common goals. We recommend a single PAC in a district, with existing PACs serving as committees for specific programs. This would apply to Title IV and JOM at least; for Title I, the committee might serve as a delegation, rather than comprising the entire committee for that program. This single PAC must be adequately funded, so that staff positions can be maintained and so that technical assistance can be purchased. Not only are PAC members uninformed about their programs, but school staff are frequently uninformed about the role of the PAC. More training must be provided, and funded, at all local levels. PAC members, school staff and LEA staff should have combined training sessions in which all groups learn from each other on an equal basis.

#### Indian Education

The preceding discussion deals of course with Indian Education, but could be applied with little change to other bi-cultural settings. The Indian situation, however, is unique, and we advance the following propositions as distinctly Indian.

Proposition 8 - Indian Education within the federal structure has evolved primarily as a tool for assimilation and for land divestation. In any terms, Indian or white, this traditional educational system within the BIA and public

school structures has failed.

Proposition 9 - Indian Tribes and not states have the primary responsibility for educating Indian children within Tribal jurisdictions.

Proposition 10 - The financing of Indian Education is exercised by the federal government in Tribal jurisdictions in lieu of Tribal fiscal responsibilities not in lieu of state fiscal responsibilities.

Proposition 11 - Federal financial support for Indian Education stems from treaty, moral, legal and practical responsibilities.

Proposition 12 - Indians who have accepted U. S. citizenship have a dual citizenship (Tribal and United States) therefore within state jurisdictions they enjoy all the rights, duties, privileges and responsibilities of any other citizen of the state.

A major conclusion which follows from these propositions is that legislation, and the implementation of legislation must take into account the fact of Tribal educational jurisdiction and thus the development of Tribal educational institutions as well as the fact of Indian students in state jurisdictions and thus federal funding to address the special educational needs of such students.

Within the framework of Tribal educational jurisdiction we recommend that federal educational funds be spent primarily for the development of Tribal educational



institutions. BIA schools should be returned to Tribal control rather than to state or local educational agencies. Maintaining the existing public educational institutions (state jurisdiction) within Indian Tribal jurisdictions should be an option of Tribes, not a requirement brought about by the BIA policy of termination of Tribal educational jurisdiction.

Within the framework of Indian Education in public schools we can make specific recommendations regarding the three supplemental programs that have been studied.

Title I is not Indian-oriented; should be used as a compensatory program for guaranteeing an adequate basic. Education in the traditional subject matter, i.e., (3 R's).

Title IV is the best structured of the programs we have studied. It is at least as successful as the other two, and is the best vehicle for translating favorable community attitudes toward Indian Education into effective programs. Furthermore, it has only been in existence a short time, so that we conclude that it is potentially the strongest tool for achieving a good educational system for Indians. Title IV should be used exclusively for Indian-related educational subject matter. It should be strengthened and expanded.

JOM funds are used for virtually every educational and non-educational purpose imaginable. The only consistent finding is that JOM is simply a device to "plug holes" in the educational budget. This extends, at some sites, to the misappropriation of JOM funds toward basic support.

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JOM should focus on special non-classroom needs and should be primarily used to relieve the socio-economic burdens which prevent an Indian child from attending school. In addition, JOM should be used for non-school based education as determined by the PACs. JOM would be best administered by PACs and should allow considerable flexibility since the needs can only be determined by the PACs themselves.

A final point should be made regarding Tribal educational institutions. Education is a major industry; for most Tribal jurisdiction it may well provide more than 50 percent of the inflow of monies. The control of educational dollars leads to financial and political power. Although our study is concerned with education it indirectly is concerned with the socio-economic conditions of the Indian people. We recommend that the development of Indian educational institutions be viewed not only in strictly educational terms, but as a major tool for the economic development and self-sufficiency of Indian Tribes.

#### Management

The preceding sections have emphasized educational programs and local Indian control. While these two aspects constitute our ultimate area of concern, we must also address the problems that arise from the existing educational bureaucratic structure. The two main functions of these institutions are management and financing, the first of which is treated here and the second of which is treated in the next section. The following proposition applies to both.

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Proposition 13 - Education, while taking place on a local level, necessarily involves an extensive bureaucracy, with its twin aspects of management and finance. Educational recommendations cannot be implemented in a vacuum, but must take management and finance into account.

All bureaucracies drift toward self-perpetuation and it is sometimes necessary to remind ourselves of the following truisms.

Proposition 14 - Any educational management system must be based on accountability to a constituency.

Proposition 15 - The constituency, in the case of Indian Education, is the Indian people.

We have found that serious management weaknesses exist at all levels and for all programs. National agencies - USOE and BIA - do not provide leadership and direction to state and regional agencies, and do not coordinate their efforts. State and regional agencies do not manage programs effectively and do not provide leadership and direction to LEAs. The BIA in particular must be singled out here. BIA management is not just weak; it is internally inconsistent and is structured so as to confound rather than serve the Indian people. USOE and BIA, at the national level, must coordinate their efforts, with each other and with Indian groups. They must exercise their authority in terms of clear and enforceable rules, regulations and guidelines so as to provide direction to state, regional and local agencies.

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SEA management is weak, has little relationship to LEA management and is not based on accountability to an Indian constituency. Our first recommendation is that Indian Education be managed primarily as a joint local/federal system, with the role of the state being de-emphasized.

At the LEA level, not only is management weak, but strong management detracts from program success; the LEA, in "improving" its management practices, hinders rather than helps the Indian community in achieving its educational goals. The issue here, then, is not that of strengthening current school management practices but of re-defining the role of management. Management must be re-structured to focus on effectiveness rather than narrow compliance; on problem-solving rather than self-maintenance. The management system must be organized to accomplish objectives set by parents, students and teachers. School administrators must make informed decisions based on the reality of the classroom and the child's home environment while adjusting and improving based upon feedback from operational levels and evaluation of outcomes.

An educational system, to be effective, must be financed effectively, i.e., must be financed in terms of the goals and objectives of the system. Financing involves four main components - source of finance, dollar amount, distribution and control - and we base our recommendations on propositions concerning each of these components.

Proposition 16 - The cost of education should be divided between local, state and federal sources in

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state jurisdictions: between Tribal and federal sources in Tribal jurisdictions.

Proposition 17 - Funding must be guaranteed to provide an "adequate basic education" to all children.

Proposition 18 - Funding must be equitable within an LEA, among districts in a state, and across states.

Proposition 19 - Educational control implies control of money.

We have found that there is no consistent definition of "basic support" at the LEA level. Nor is there any uniformity in accounting procedures or in classification of expenditures. These problems lead to misappropriation of funds, most noticeably in regard to JOM money being used for basic support. More basically, they negate the possibility of an "adequate basic education" for all by obscuring the details of cash flow in a school district. An adequate basic education must be provided through state and local funding together with such federal sources as Title I and P. L. 874. The use of Title IV and JOM for this purpose must be prohibited. Accounting procedures must be standardized to guarantee that LEAs will be accountable in terms of matching revenues to expenditures.

The current situation is not entirely the fault of the LEAs, but is largely dependent on the lack of local funds, inadequate state support and the funding cycles which make planning all but impossible and necessitate an ad hoc use of whatever money is available. Since education should be a basic right, educational funding must be guaranteed. Forward funding is a necessity. Entitlements should be

available two years in advance.

Proposition 18 calls for "equalization" of school per pupil expenditures. If this were achieved it would not guarantee an "equal educational opportunity" much less an "adequate educational opportunity." "Equalization" however, can be thought of as providing a minimum per pupil amount for each school and school district. We recommend that federal legislation be enacted requiring states to implement "Equalization" of basic support per pupil expenditures not only across LEAs within the state but also across schools within the district. Such "equalization" should apply to funds for school construction as well as school operation. This would provide a more appropriate method to deal with the problem of "equal educational opportunity." We also recommend that the federal government institute a national "equalization" plan which would equalize per pupil expenditures across states.

If federal equalization legislation which cuts across all levels is too difficult, impossible or too expensive to be enacted by Congress, then as a minimum we recommend the following: The federal government should ensure "equalization" of "basic support" to Indian school districts at a minimum level of the national average per pupil expenditure, through an amendment to 874 legislation.

With regard to school construction P. L. 815 should be amended so as to provide a set-aside for Indian districts to allow for construction needs of such districts or should be funded at a high enough level to end de facto competition

between Indian district needs and construction needs of military bases and other federally impacted areas.

Educational content, as we have mentioned, cannot be controlled without control over educational funds. Since we believe that LEAs must be accountable to their communities, we recommend an enforceable by-pass provision for all Indian educational programs. If it can be demonstrated that the LEA is not responsive to the needs of the Indian community, funds should go directly to the unified PAC in the community.

The above summary attempts to set forth basic propositions and recommendations and is not concerned with specific legislative language. We recommend further research that concentrates on developing management models for school administrators. In addition we believe, for Indian Education to become effective new alternatives must be tried, further research must be done to determine the factors that affect the achievement of Indian students; and schools must be changed accordingly.

There must be a new approach which looks at output of schools in terms of performance in reaching goals. Standards must be set not only in terms of the factors in the process, but also in terms of the desired outcomes of students, parents and community.

Schools for Indian children must be allowed to try new alternatives and research must be carried out to clarify the relationships between the Indian child's environment and the school, between the child's goals and aspirations and the goals and aspirations of his teachers, as well as

other factors that affect the child.

And finally we believe that policy makers should make every effort to pass legislation based upon informed decisions which take into account the accumulative state of knowledge in the respective disciplines.

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SAMPLE WORK SHEET: LEGISLATIVE ANALYSIS FOR INDIAN EDUCATION OMNIBUS ACT

Function	Federal	Public Schools	Tribal Schools	Tribal: Non-School	Needed Reform
Construction of School facilities Federal impacted areas and Indian reservations	°Snyder Act	°Local Revenue °P.L. 81-815 °S.1017 (Proposed)	°Snyder Act (when project considered BIA "priority") °S.1017 (proposed)		1. Amend Legislation (P.L. 815 and Snyder Act) to; a. Recognize Tribal jurisdiction; b. Permit funding of construction projects to develop Tribal systems; c. Adequate funding base for realistic phase-in of construction projects
Support for basic educational foundation program.	°Snyder Act	°State & Local °P.L. 81-874 °Johnson-O'Malley °S.1017 (proposed)	°Snyder Act (when considered BIA priority) °S.1017 (proposed)		1. Amend P.L. 81-874 to: a. Recognize Tribal jurisdiction; b. Appropriate set-aside percentage for Tribal schools c. Further define a "basic program". d. Guarantee basic support to Indian districts.

X L I V

Support for compensatory educational programs to develop basic educational skills.	Title I	Title I °S.1017(proposed)	Title I °S.1017 (proposed)	1. Amend Title I:  a. To permit Title I funds to go to Tribal as well as Federal BIA Schools.  b. Programs should be used for compensatory needs to bring Indian children to achievement levels in the traditional subject matter.
Support for special educational programs which relate to the cultural needs of Indian children	Title I	Title IV °S.1017 (proposed)	Title IV (10% set-aside, Part A) °S.1017 (proposed)	1. Amend Title IV to:  a. Be used strictly in a cultural sense;  b. Funding by-pass for PAC when LEA will not apply for funding;  c. Budget for PAC's for training and interaction.  d. Title I should be used in BIA schools for cultural courses when no other funds are available.

Support for non-school based on educational programs.		°Johnson-O'Malley (proposed) °S.1017	°S.1017 (proposed)	°Johnson-O'Malley (when contracted) °S.1017	Amend Johnson-O'Malley for "out-of-school" usage yet retaining educational emphasis, i.e., serviced which keep students in school.
Provides for community/parental input, control, interaction into programs for Indian children	Snyder Act (Advisory only)	°Johnson-O'Malley (Advisory) °Title IV (Advisory) °Title I (Advisory, non-Indian)	°Snyder Act (community school boards) °S.1017	Johnson-O'Malley (when contracted)	1. Amend legislation to: a. Consolidate PACs in Indian related matters. b. Strengthen control c. Include P. L. 81-874 under consolidation. d. Funding for training PACs.
Provides for development of management systems and mechanisms for accountability to those served by schools and to funding agencies.		Johnson-O'Malley Title IV Title I (only in limited sense)	°S.1017 (proposed)		Needs strengthening in all legislation affecting Indian people.
Evaluative and feed back linkages that permit for development, improvement and growth of community school concepts.			°S.1017 (proposed)		1. Legislation needed for: a. Linkage with institutions of higher learning, Indian research firms. b. Must tie-in with all legislation.

Provides for adequate and relevant training functions for Indian PAC and community members	Johnson-O'Malley Title IV	*S. 1017 (proposed) Title IV (Part B)	*S. 1017 (proposed) Title IV (Part B)	1. Legislation needed to <ol style="list-style-type: none"> <li>Develop coordination between BIA and USOE.</li> <li>Higher training emphasis.</li> <li>Outside contracts for developing training packages.</li> </ol>
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Public Law 92-463  
92nd Congress, H. R. 4383  
October 6, 1972

## An Act

66 STAT. 770

To authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Federal Advisory Committee Act".

Federal Advisory Committee Act.

### FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

### DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

#### APPLICABILITY

SEC. 4. (a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

Restrictions.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

- (1) the Central Intelligence Agency; or
- (2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

#### RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

Review.

SEC. 5. (a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

Guidelines.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

#### RESPONSIBILITIES OF THE PRESIDENT

SEC. 6. (a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

Report to  
Congress.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

Annual report  
to Congress.

Exclusion.

#### RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

SEC. 7. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

Committee Man-  
agement Secre-  
tariat.  
Establishment.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

Review.

- (1) whether such committee is carrying out its purpose;
- (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- (3) whether it should be merged with other advisory committees; or
- (4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

Recommendations  
to President  
and Congress.

Agency  
cooperation.

Performance  
guidelines.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

Uniform pay  
guidelines.

(d) (1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code; and

Travel expenses.

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

80 Stat. 499;  
83 Stat. 190.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee, from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

Expense recom-  
mendations.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

#### RESPONSIBILITIES OF AGENCY HEADS

SEC. 8. (a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

Advisory Com-  
mittee Manage-  
ment Control  
Officer, design-  
ation.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers.

81 Stat. 54.

#### ESTABLISHMENT AND PURPOSE OF ADVISORY COMMITTEES

SEC. 9. (a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President: or



(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

- (A) the committee's official designation;
- (B) the committee's objectives and the scope of its activity;
- (C) the period of time necessary for the committee to carry out its purposes;
- (D) the agency or official to whom the committee reports;
- (E) the agency responsible for providing the necessary support for the committee;
- (F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;
- (G) the estimated annual operating costs in dollars and man-years for such committee;
- (H) the estimated number and frequency of committee meetings;
- (I) the committee's termination date, if less than two years from the date of the committee's establishment; and
- (J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

#### ADVISORY COMMITTEE PROCEDURES

Sec. 10. (a) (1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the

Meetings.

Notice.  
Publication in  
Federal Register.  
Regulations.

81 Stat. 54.

Minutes.

- Certification.** advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.
- (d) Subsections (a)(1) and (a)(3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in section 552(b) of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5, United States Code.
- 81 Stat. 54.  
Annual report.** (e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.
- Federal officer or employee, attendance.** (f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

#### AVAILABILITY OF TRANSCRIPTS

- "Agency proceeding."** Sec. 11. (a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.
- 80 Stat. 382.** (b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of title 5, United States Code.

#### FISCAL AND ADMINISTRATIVE PROVISIONS

- Recordkeeping.** Sec. 12. (a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.
- Audit.** (b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.
- Agency support services.**

#### RESPONSIBILITIES OF LIBRARY OF CONGRESS

- Reports and background papers.** Sec. 13. Subject to section 552 of title 5, United States Code, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.
- Depository.**

## TERMINATION OF ADVISORY COMMITTEES

SEC. 14. (a) (1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b) (1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c). Renewal.

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate. Continuation.

## EFFECTIVE DATE

SEC. 15. Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following the date of enactment.

Approved October 6, 1972.

## LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1017 (Comm. on Government Operations) and No. 92-1403 (Comm. of Conference).

SENATE REPORT No. 92-1098 accompanying S. 3529 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 118 (1972):

May 9, considered and passed House.

Sept. 12, considered and passed Senate, amended, in lieu of S. 3529.

Sept. 19, Senate agreed to conference report.

Sept. 20, House agreed to conference report.

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

March 27, 1974

CIRCULAR NO. A-63  
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Advisory Committee Management

1. Purpose. This Circular provides guidance for implementation of the Federal Advisory Committee Act, Public Law No. 92-463, 5 U.S.C. App. I, (hereinafter referred to as the "Act") and Executive Order No. 11769, entitled "Advisory Committee Management."

2. Rescission. This Circular rescinds and supersedes the December 26, 1972 revision of Circular No. A-63 and the OMB/Department of Justice Memorandum on implementation of the Federal Advisory Committee Act (see 38 Fed. Reg. 2306 (1973)).

3. Policy. In the application of this Circular, these principles should be followed.

a. Advisory Committee meetings should be open to the public. Exceptions should be held to the minimum, carefully grounded in law and explained in detail. The emphasis should be on the free flow of information to the public.

b. Advisory committees should be limited to those that are essential. Any advisory committees which are not fulfilling their purposes should be terminated.

c. The recommendations of advisory committees should be considered by those who sought advice, while responsible Federal officers retain authority for decisions.

d. Standards and uniform procedures for the creation, operation, and duration of advisory committees should be established.

4. Definitions. For purposes of this Circular --

a. "Act" means the Federal Advisory Committee Act.

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b. "Advisory Committee" has the meaning set forth in Section 3 of the Act.

5. Responsibilities.

a. The Office of Management and Budget (OMB). In general, the functions of the Director under the Act and under Executive Order 11769 shall be carried out by the Committee Management Secretariat of OMB.

b. Departments and agencies.

(1) The head of each agency which uses an advisory committee shall insure compliance with the Act and this Circular and shall issue regulations which apply to all advisory committees established or used by the agency.

(2) The head of each agency which uses an advisory committee shall designate an Advisory Committee Management Officer who shall carry out the functions specified in Section 8(b) of the Act and this Circular. The name of each Advisory Committee Management Officer shall be provided to the OMB Secretariat.

(3) Each agency shall maintain information on the nature, functions, and operations of each of its advisory committees. This shall include a complete set of the charters of the agency's advisory committees, and copies of the annual reports on its advisory committees in a single location.

6. Creation of advisory committees.

a. When an agency proposes to establish an advisory committee not specifically authorized by statute or by the President, the agency head must consult with the OMB Secretariat. Such "consultation" may be in the form of a letter from the agency head describing the nature and purpose of the proposed advisory committee, including an explanation of why the functions of the proposed committee could not be performed by the agency or by an existing committee. The letter, in addition, should describe the agency's plan to attain balanced membership on the proposed committee. If the OMB Secretariat is satisfied that establishment of the advisory committee would be in accord with the Act, the agency head shall certify in writing that creation of the advisory committee is in the public interest. This

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certification and a description of the nature and purpose of the committee shall be published in the Federal Register at least 15 days prior to the filing of the committee's charter. The OMB Secretariat may, for good cause, authorize a shorter period of time between publication of the notice and the filing of the charter.

If not satisfied that establishment of the advisory committee would be in accordance with the Act, the OMB Secretariat shall inform the agency head in writing within 15 days of receipt of the agency letter.

b. Unless specifically provided otherwise by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions.

c. (1) Each advisory committee shall file a charter complying with Section 9(c) of the Act. This requirement applies to committees "utilized" as advisory committees, though not established for that purpose.

(2) A copy of each charter shall be furnished to the Library of Congress at the time of filing. Copies should be sent to:

Library of Congress  
Exchange and Gift Division  
Federal Advisory Committee Desk  
Washington, D.C. 20540

#### 7. Termination and renewal of advisory committees.

a. Each nonstatutory advisory committee (i.e., not established by statute or reorganization plan) which is in existence on January 5, 1973, shall terminate no later than January 5, 1975, unless it is renewed by the President or the agency head prior to January 5, 1975.

Before such a committee can be renewed by an agency, the agency head must determine that renewal is necessary and shall inform the OMB Secretariat of his determination and the reasons for it not more than 60 days before the committee expires. If the Secretariat concurs, the agency head shall publish notice of the renewal in the Federal Register and shall file a new charter.

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Any advisory committee which is renewed shall continue for not more than two years unless, prior to the expiration of that period, it is renewed. Each such advisory committee established by the President or a Federal officer after January 5, 1973, shall terminate not later than two years after its establishment unless prior to that time it is renewed.

b. Each advisory committee established by statute or reorganization plan which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless its duration is otherwise provided for by law.

(1) Each such advisory committee which is established after January 5, 1973, shall terminate not later than two years after its establishment unless its duration is otherwise provided for by law.

(2) Any such statutory advisory committee shall file a new charter upon the expiration of each successive two-year period following the date of enactment of the statute establishing the committee.

c. No advisory committee required by Section 14(b) of the Act to file a new charter shall take any action, other than preparation and filing of such charter, between the date the new charter is required, and the date it is filed.

## 8. Operation of advisory committees.

### a. Calling of meetings.

(1) No advisory committee shall hold any meeting except at the call of or with the advance approval of the Federal official designated in accordance with Sec. 10(e) of the Act and this Circular. (See 8f below.)

(2) Except with respect to Presidential advisory committees, each meeting of an advisory committee shall be conducted in accordance with an agenda approved by the Federal official. The agenda shall list the matters to be considered at the meeting. It shall also indicate when any part of the meeting will concern matters within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b).

### b. Notice of meetings.

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(1) Except when the Director determines otherwise for reasons of national security, timely notice of each advisory committee meeting, whether open or closed to the public, shall be published in the Federal Register. In addition to the notice in the Federal Register, other forms of notice should be used, for example, press releases and notices by mail. Where practicable, agencies should maintain lists of people and organizations interested in particular advisory committees and notify them of meetings by mail.

(2) Such notice should state the name of the advisory committee, the time, place and purpose of the meeting (including where appropriate, a summary of the agenda). Notices ordinarily should state that meetings are open to the public, or, explain why any part is closed.

(3) Such notice should be published at least 15 days before the date of the meeting except that shorter notice may be provided in emergency situations, and the reasons for such emergency exceptions shall be made part of the meeting notice. Agencies should keep in mind the time the Federal Register needs to get notices into print, and plan accordingly.

(4) Notice is not required when the Director has determined that it should not be published for reasons of national security. Any agency advisory committee which seeks such a determination, shall submit its request and a statement of reasons to the Director at least 30 days before the meeting is scheduled.

c. Public participation. The agency head or, in the case of a Presidential advisory committee, the chairman of the committee shall, for any advisory committee meeting, all or part of which is open to the public, assure compliance with the following rules:

(1) Meetings shall be held at a reasonable time and at a place that is reasonably accessible to the public.

(2) The size of the meeting room shall be determined by such factors as the size of the committee, the number of members of the public who could reasonably be expected to attend, the number of persons who attended similar meetings in the past and the resources and facilities available.

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(3) Any member of the public shall be permitted to file a written statement with the committee.

(4) Interested persons may be permitted by the committee chairman to speak at the meeting in accordance with procedures established by the committee.

d. Closed meetings.

(1) Section 10(d) of the Act states that the provisions concerning open meetings and public participation "shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in . . ." 5 U.S.C. 552(b), the exemptions of the Freedom of Information Act.

(2) An advisory committee which seeks to have all or part of a meeting closed on the basis of 5 U.S.C. 552(b) shall notify the agency head or, in the case of a Presidential advisory committee, the Director at least 30 days before the scheduled date of the meeting. The notification shall be in writing and shall specify all the reasons why any part of the meeting should be closed.

If the agency head or the Director finds the request to be warranted and in accordance with the policy of the Act, the request shall be granted. The determination of the agency head or the Director shall be in writing and shall state the specific reasons for closing all or part of the meeting. The determination itself shall be made available to the public on request. The agency head or the Director may delegate responsibility for making the above determinations. However, in any case where a determination to close a meeting is made by a delegate of the agency head, the determination should be reviewed by the agency General Counsel.

(3) When a meeting is closed, the advisory committee shall issue a report at least annually setting forth a summary of its activities and related matters which are informative to the public consistent with the policy of 5 U.S.C. 552(b). Notice of availability of such annual report shall be published in the Federal Register no later than 60 days after its completion. The notice shall include instructions which will allow the public access to the report.

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e. Minutes. Detailed minutes shall be kept of each advisory committee meeting. The minutes shall include: the time and place of the meeting; a list of advisory committee members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory committee; a description of the extent to which the meeting was open to the public; and a description of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting.

The chairman of the advisory committee shall certify to the accuracy of the minutes.

f. Designated Federal employee.

(1) With regard to an advisory committee used by an agency, the agency head shall designate a Federal officer or employee as set forth in Section 10(e) of the Act and determine whether he is to chair or attend the meetings. With regard to Presidential advisory committees such officer or employee may be designated, and his role determined by the Director. Ordinarily, the designated Federal employee should serve on a continuing basis.

(2) No advisory committee shall conduct a meeting in the absence of the designated Federal employee.

(3) The designated Federal employee shall be authorized to adjourn any advisory committee meeting, whenever he determines adjournment to be in the public interest.

9. Reports on advisory committees.

a. The President has delegated, in Executive Order 11769, responsibility for preparation of the annual report required by Section 6(c) of the Act to the Administrator of General Services. The General Services Administration (GSA) will provide appropriate reporting instructions.

b. Two copies of each public report of each Presidential advisory committee shall be submitted to the OMB Committee Management Secretariat at the time of the submission to the President.

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10. Comprehensive Review. The annual review required by Section 7(b) of the Act shall be conducted on a calendar-year basis. Agencies may schedule the review so that its results are incorporated in the annual report of advisory committees. The review should examine all advisory committees, and terminate those no longer useful. Advisory committees specifically created by statute or Executive Order should be reviewed, and if appropriate, their termination recommended. The comprehensive review should include, among other things, a summary of the total number of advisory committee meetings, the number of closed or partially closed meetings, and a recapitulation of the exemptions in the Freedom of Information Act used as a basis for closing meetings. The review should also comment in some detail on agency efforts and procedures to insure balanced membership on its advisory committees. The results of the comprehensive review should be included in the annual report to the Administrator of General Services.

11. Uniform pay guidelines.

a. Pay for members of an advisory committee.

(1) Subject to the provisions of this paragraph, an agency shall fix the pay of the members of an advisory committee to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated as provided in 11c below.

(2) In determining an appropriate rate of pay for the members of an advisory committee, an agency shall give consideration to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the advisory committee.

(3) An agency may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15 unless the head of the agency has personally determined that, under the factors set forth in paragraph 11b(2), a higher rate of pay is justified and necessary. Such a determination must be reviewed by the head of the agency annually.

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b. Pay for the staff of an advisory committee.

(1) Subject to the provisions of b(2), below, an agency shall fix the pay of each member of the staff of an advisory committee at a rate of the General Schedule in which the staff member's position would appropriately be placed were the General Schedule classification system in chapter 51 of title 5, United States Code, applicable to the position.

(2) An agency may not fix the pay of a member of the staff of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15 unless the head of the agency has determined that, under the General Schedule classification system, the staff member's position would appropriately be placed in the General Schedule grade higher than GS-15. Such a determination must be reviewed by the head of the agency annually.

c. Pay for consultants to an advisory committee. An agency shall fix the pay of a consultant to an advisory committee after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The rate of pay shall not exceed the maximum rate of pay which the agency may pay experts and consultants under 5 U.S.C. 3109.

d. Voluntary services of an advisory committee member. The provisions of this section shall not prevent an agency from accepting the voluntary services of a member of an advisory committee, or a member of the staff of an advisory committee, provided that the agency has authority to accept such services without compensation.

e. Reimbursable travel expenses for advisory committee members and staff. The members of an advisory committee, and the staff thereof, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703 for persons employed intermittently in the Government service.

12. Effective date. The provisions of this Circular are effective on May 1, 1974.



13. Inquiries. For information concerning this Circular, contact the Office of Management and Budget, Committee Management Secretariat, phone 395-5193 (IDS Code 103).

ROY L. ASH  
DIRECTOR

(13-4-10N)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 19, 1974

MEMORANDUM TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Compliance with the Federal Advisory Committee Act (P.L. 92-463); Executive Order 11769, and OMB Circular A-63

The Federal Advisory Committee Act (the Act) requires that existing committees be reviewed annually. Committees found to be no longer necessary should be terminated. The Act places primary responsibility for the conduct of these annual reviews upon the Director of the Office of Management and Budget (OMB), but provides that agency heads cooperate with the Director in making the reviews. The Act and Executive Order 11769 require the heads of all agencies to take appropriate action to assure compliance with the Act. The purpose of this memorandum is to inform you of these requirements and to request your cooperation in making the necessary reviews.

OMB is committed to a rigorous review of each advisory committee covered by the Act. It is important that we strive to limit the number of advisory committees and continue the reduction in the number of advisory committees that has occurred since the Act took effect. Accordingly, each agency head should personally make sure that his organization is carefully reviewing the use of advisory committees and taking the necessary steps to eliminate those not truly needed.

Attached are copies of directives I have issued which spell out the nature and format of the reviews and information required. I strongly recommend that you, or a senior policy official designated by you, review the data required by these attachments to assure that each committee's continued existence is necessary to the successful accomplishment of your agency's responsibilities. Furthermore you should be satisfied that the advice provided by the committee is indeed utilized and can be most effectively provided by the use of an advisory committee.

In addition, I wish to remind all agencies concerned of the importance of fully implementing the functions regarding



Presidential Advisory Committees delegated to them by Deputy Director Malek's memorandum of June 25, 1973, and other similar specific delegations.

Your prompt attention to these matters is necessary to insure that the intent of the Act is fully implemented.

A copy of this Memorandum, and its attachments, is being sent to your Advisory Committee Management Officer.

*Fred Malek*

Acting Director

Attachments:

Circular No. A-63:

Transmittal Memorandum No. 1

Transmittal Memorandum No. 2

Bulletin No. 75-2

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

July 19, 1974

CIRCULAR NO. A-63  
Transmittal Memorandum No. 1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Advisory Committee Management--Renewal of  
Committees

1. Purpose. This Transmittal Memorandum amends Section 7(a) of Circular No. A-63, Revised, dated March 27, 1974.
2. Amendment. The 2nd paragraph of Section 7(a) is revised to read as follows:

Before a committee can be renewed by an agency, the agency head shall inform the OMB Secretariat by letter not more than 60 days nor less than 30 days before the committee expires of the following: (a) his determination that renewal is necessary and is in the public interest; (b) the reasons for his determination; (c) the Agency's plan to attain balanced membership of the committee; and (d) an explanation of why the committee's functions cannot be performed by the agency or by an existing advisory committee.

If the Secretariat concurs, the agency head shall certify in writing that the renewal of the advisory committee is in the public interest and shall publish notice of the renewal in the Federal Register and shall file a new charter.

3. Effective date. This Memorandum is effective immediately. Its provisions should be applied to all committee renewals.
4. Inquiries. Inquiries or requests for assistance should be directed to the Office of Management and Budget Committee Management Secretariat, telephone 395-5193 (code 103).

ROY L. ASH  
DIRECTOR

(No. A-63)



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 19, 1974

CIRCULAR NO. A-63  
Transmittal Memorandum No. 2

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Advisory Committee Management -- Annual Comprehensive Review of Committees

1. Purpose. This Transmittal Memorandum amends Section 10, Circular No. A-63, Revised, dated March 27, 1974. It provides instructions for the completion of the annual comprehensive review of advisory committees as required by Section 7(b) of P.L. 92-463. It also provides a reporting format and schedule necessary to fulfill the intent of the Act.

2. Background. Under the provisions of P.L. 92-463, Section 7(b), the Director of the Office of Management and Budget (OMB), with the cooperation of the agency heads, shall institute a comprehensive review of each advisory committee to determine whether:

- a. such committee is carrying out its purpose;
- b. consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- c. it should be merged with other advisory committees;  
or
- d. it should be abolished.

In addition, agencies shall provide statements of justification where the Agency determines a committee should be continued.

Although OMB Bulletin No. 75-2, dated July 19, 1974, provides similar instructions for those advisory committees scheduled to terminate on January 5, 1975 (see Section 14 of the Act), the report required in this Transmittal Memorandum necessitates a separate report. This Transmittal Memorandum

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provides continuing instructions for reporting on an annual basis.

3. Comprehensive Review. The comprehensive review is intended to include an objective analysis of the necessity for each advisory committee. The review should examine all advisory committees created by Agencies, and terminate those no longer needed. Advisory committees established by act of Congress or the President should be reviewed, and if appropriate, their termination recommended.

The head of each agency, or a senior policy official designated by him, should carefully review the data required by the attachment to this Transmittal Memorandum to assure that each committee's continued existence is necessary to the successful accomplishment of the agency's responsibilities. The head of the agency, or the senior policy official designated by him, should also be satisfied that the advice provided by each committee is utilized and is most effectively provided by the use of an advisory committee. Pertinent factors to be considered in the review include the following:

a. the number of times the committee has met in the past year;

b. the number of reports or recommendations submitted by the committee;

c. an evaluation of the substance of the committee's reports or recommendations with regard to the agency's programs or operations;

d. an evaluation of the history of agency utilization of the committee's recommendations in policy formulation; program planning; decision making; accomplishing program objectives more effectively; and achieving economies in programs; (This evaluation should place emphasis on the most recent 12 month period of the committee's work.)

e. whether the information or recommendations could be obtained from sources within the agency or from another advisory committee already in existence.

f. the degree of duplication of effort by the committee as compared to other parts of the agency or other advisory committees; and

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- g. the estimated annual cost of the committee.

Agency heads may develop additional criteria as appropriate. The primary concern, however, should always be to assure that the number of advisory committees is limited to only those that are necessary to the conduct of the public's business.

4. Reports. As a result of the annual comprehensive review the following information is to be submitted by the date specified:

a. Comprehensive Review, due November 30 of each year (see Exhibit I).

b. Monthly reports -- In order that OMB's Committee Management Secretariat may be more currently informed regarding the status of all advisory committees covered by the Act, all agencies are requested to inform the Secretariat by letter of the termination or other significant changes with respect to their advisory committees no later than 10 working days following the end of the month in which the change occurred. If no changes are made during any given month, a report is not required.

5. Effective date. This Transmittal Memorandum is effective immediately.

6. Inquiries. Inquiries or requests for assistance should be directed to the Committee Management Secretariat, Office of Management and Budget, telephone 395-5193 (code 103).

ROY L. ASH  
DIRECTOR

(No. A-63)

Annual Comprehensive Review of Advisory Committees

I. Committees to be continued.

For each advisory committee which the head of the department or agency determines necessary for continuance, insert or append a justification making reference to the factors in Transmittal Memorandum No. 2, paragraph 3 as appropriate.

II. Committees whose responsibilities should be revised.

III. Committees to be merged with other committees.

(insert immediately following each committee the committee or committees with which the merger is contemplated)

IV. Committees to be abolished.

FOR EACH OF THE ABOVE CATEGORIES LIST COMMITTEES ALPHABETICALLY, IDENTIFY ANY COMMITTEES CREATED BY THE CONGRESS OR BY THE PRESIDENT CITING THE AUTHORIZING DOCUMENT IN EACH INSTANCE, AND SUBMIT COPIES OF THE ABOVE LISTINGS AND THEIR INSERTS IN TRIPLICATE.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

BULLETIN NO. 75-2

July 19, 1974

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Review of Advisory Committees which are scheduled to automatically expire on January 5, 1975 in accordance with Section 14(a)(1) of Public Law 92-463.

1. Purpose. This Bulletin sets forth a procedure for the review of those advisory committees which will automatically expire on January 5, 1975 as provided in Section 14(a)(1) of Public Law 92-463. It also establishes a format and schedule for reporting certain data to the Committee Management Secretariat of the Office of Management and Budget (OMB).

2. Background. P.L. 92-463 requires, among other things, the Director of OMB, with the cooperation of Agency heads, to institute a comprehensive review of the activities and responsibilities of each advisory committee (see Section 7 of the Act and Circular No. A-63, Transmittal Memorandum No. 2). In addition, the Act requires that each advisory committee in existence on the effective date of the Act (January 5, 1973) will terminate not later than the expiration of a two-year period following the effective date unless otherwise provided by law, if it has not been renewed by the President, an appropriately authorized Federal official or the Congress (see Section 14 of the Act). The Act and Executive Order 11769 require the heads of all agencies to take appropriate action to assure compliance with the Act. The information required by this Bulletin and Circular No. A-63 as amended are essential steps in meeting the objectives of the Act.

3. Comprehensive review. Each agency head, or an appropriately designated policy level official, will institute a review of those advisory committees which are scheduled for termination on January 5, 1975. At a minimum, the review should provide a basis for determinations as to whether:

- a. the committee is carrying out its purpose;

b. consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

c. it should be merged with other advisory committees;  
or

d. it should be abolished.

This review should examine all advisory committees that expire under Section 14(a)(1) and those no longer necessary should be terminated. Advisory committees established by an act of Congress or the President should be reviewed, and if appropriate, their termination recommended. Examples of questions that should be thoroughly explored with respect to each advisory committee are provided in the attachment.

#### 4. Reports.

a. To carry out the purposes of Section 6(c) of the Act, OMB needs by August 23, separate lists in triplicate of statutory committees that the agencies recommend be terminated. This list should include a statement of the reasons for the proposed action.

b. As a result of the review described in this Bulletin, each agency shall submit, in the format of Exhibits 1 & 2 hereto, the following:

(1) the agency head's preliminary determination as to which committees should be continued, revised, merged, or abolished (due September 15, 1974); and

(2) the agency head's final determination as to which committees should be continued, revised, merged, or abolished (due November 5-15, 1974).

5. Notification of completion of consultation. The Secretariat will notify Committee Management Officers (CMOs) prior to January 5, 1975 of completion of consultation on specific committees. Upon receipt of such notification, additional actions required by the Act and Circular No. A-63 for such committees should be completed by the Agency concerned (see Section 7 of A-63 and Transmittal Memorandum No. 1 thereto).

6. Rescission. This Bulletin is effective until January 5, 1975.

7. Inquiries. Inquiries and requests for assistance with regard to this Bulletin should be addressed to the Committee Management Secretariat, Office of Management and Budget, telephone (202) 395-5193, (Code 103).

ROY L. ASH  
DIRECTOR

Attachment



Report format for Agency Preliminary determinations resulting  
from the Review of Advisory Committees  
scheduled to terminate on January 5, 1975

I. Committees to be continued.

For each advisory committee which the head of the agency determines necessary for continuance, insert or append a preliminary justification making reference to the factors in the Attachment to Bulletin No. 75-2 as appropriate.

II. Committees whose responsibilities should be revised.

III. Committees to be merged with other Committees.

Insert immediately following each committee the committee or committees with which the merger is contemplated.

IV. Committees to be abolished.

FOR EACH OF THE ABOVE CATEGORIES LIST COMMITTEES ALPHABETICALLY, IDENTIFY ANY COMMITTEES CREATED BY THE CONGRESS OR BY THE PRESIDENT CITING THE AUTHORIZING DOCUMENT IN EACH INSTANCE AND SUBMIT EACH LIST AND ITS INSERTS IN TRIPLICATE.



Report format and instructions for Agency Final determinations resulting from the Review of Advisory Committees scheduled to terminate on January 5, 1975.

Final Agency Determinations

Where there is no change in a category from the preliminary determination listed in Exhibit 1 of this Bulletin, new listings are not necessary. Where changes have occurred use the same format as used in Exhibit 1 to specify changes.

For each committee recommended for continuance submit the following:

- (1) a determination by the agency head made between November 5 and November 15 that a review has been completed in accordance with this Bulletin, that continuation of the committee is necessary and in the public interest and the reasons for such determination.
- (2) a statement of why neither the agency and nor any other committee can provide the needed advice.
- (3) a statement of agency plans for achieving balanced membership of the committee.
- (4) a statement of the justification for continuation of the committee referring to the Attachment to this Bulletin as appropriate.

Examples of Factors to Consider in Determining Whether To  
Continue, Consolidate, Terminate or Take Other  
Action Respecting an Existing Advisory Committee

To complete the comprehensive review effectively, questions such as the following should be thoroughly explored with respect to each existing advisory committee.

1. How often has the committee met in the past 12 months?
2. How many reports has the committee submitted during the past 12 months?
3. Has the committee provided information or recommendations that have been of substantial value to the agency?
4. How and to what extent has such information or recommendations been utilized by agency officials: in policy formulation? in program planning? in decision making? in accomplishing program objectives more effectively? and in achieving economies in programs?
5. Could the information or recommendations be obtained as effectively from (1) sources within the agency (2) from another existing advisory committee?
6. Does the committee duplicate to any significant degree the work or functions of other parts of the agency or any other existing advisory committee?
7. What is the annual cost of operating the committee?

Other criteria may be developed by the agency as appropriate.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 3, 1975

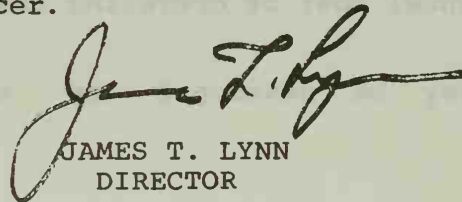
TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Federal Advisory Committee Management

I am concerned that, nearly three years after enactment of the Federal Advisory Committee Act, the downward trend in the number of committees seems to be reversing. While some of the increase may be attributed to new responsibilities, a major intent of the Act was that the number of existing committees should be reduced, and that new committees should be established only when necessary.

Attached are instructions for the annual review of each advisory committee, as required by the Act, to determine (1) whether it is carrying out its purpose, (2) whether its responsibilities should be revised, (3) whether it should be merged with other advisory committees, or (4) whether it should be abolished. I wish to stress the importance I attach to these reviews and also to the day-to-day management of advisory committees. Accordingly, I urge that you assure that only those committees which are necessary to the successful accomplishment of your agency's responsibilities are established, or continued.

A copy of this memorandum is being sent to your Committee Management Officer.

  
JAMES T. LYNN  
DIRECTOR

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 3, 1975

CIRCULAR NO. A-63  
Transmittal Memorandum No. 3

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Advisory Committee Management -- Annual  
Comprehensive Review of Committees

1. Purpose. This Transmittal Memorandum supersedes Section 10, Circular No. A-63, Revised, dated March 27, 1974, and Transmittal Memorandum No. 2, dated July 19, 1974. Instructions for the completion of the annual comprehensive review of advisory committees, and the reporting format, are provided.

2. Background. Section 7(b) of P.L. 92-463 requires the Director of the Office of Management and Budget (OMB) to conduct annually a comprehensive review of each advisory committee to determine:

- a. whether such committee is carrying out its purpose;
- b. whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- c. whether it should be merged with other advisory committees; or
- d. whether it should be abolished.

The Director may request such information as he deems necessary to carry out this function, and agency heads shall cooperate with the Director in making the reviews.

Information for the annual comprehensive reviews of committees differs from that submitted to the General Services Administration on a calendar year basis. The latter is primarily quantitative and used for the preparation of the Annual Report of the President on Federal Advisory Committees as required by Section 6(c) of P.L. 92-463.

(No. A-53)



3. Comprehensive Review. The annual comprehensive review is intended to be a qualitative analysis of each advisory committee. The head of each agency, or a senior policy official designated by the agency head, should carefully review each committee in terms of factors such as, but not limited to, those enumerated in the attached report form (Exhibit I).

Based on this review, a determination should be recommended to continue, merge, terminate, or revise responsibilities of, as appropriate, each advisory committee established by the agency. Similar actions should be recommended for each advisory committee for which the agency has responsibility which was established by statute or Presidential directive.

4. Reports. Following the agency's review, the following information is to be submitted to the Committee Management Secretariat, OMB, not later than April 1 of each year:

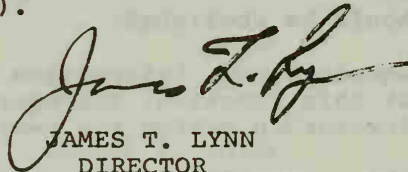
a. An annual comprehensive review, in triplicate, of each committee in existence at the end of the preceding calendar year. A format for this review, with instructions, is attached as Exhibit I. Exhibit I may be used as a coversheet for the review of each committee if agencies wish to reproduce copies.

b. A brief description of the agency's annual comprehensive review procedures and process.

c. A letter of transmittal for the review(s), constituting a determination that the continuation of the committees proposed to be continued is in the public interest, signed by the agency head or the designee.

5. Effective date. This Transmittal Memorandum is effective immediately.

6. Inquiries. Inquiries or requests for assistance should be directed to the Committee Management Secretariat, OMB, telephone 395-5193 (code 103).

  
JAMES T. LYNN  
DIRECTOR

Attachment

ANNUAL COMPREHENSIVE REVIEW of FEDERAL ADVISORY COMMITTEE	1. Department or Agency	2. Calendar Year
3. Name of committee (and subcommittee, if appropriate)		
4. If this committee held closed or partially closed meetings during the year, cite the number(s) of the specific exemption(s) in the Freedom of Information Act used as a basis for closure(s).		
5. a. Was this committee established, renewed, or reestablished since October 1 last year? <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span><input type="checkbox"/> Yes (No further review necessary)</span> <span><input type="checkbox"/> No (Complete the format)</span> </div> b. Has the committee been terminated since January 1 of this year? <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span><input type="checkbox"/> Yes (No further review necessary)</span> <span><input type="checkbox"/> No (Complete the format)</span> </div>		
6. Agency recommendation for this committee (check only one recommendation in a through e; Block 7 indicates factors in required narrative): <div style="margin-top: 5px;">           a. <input type="checkbox"/> Continue as determined to be necessary and in the public interest            b. <input type="checkbox"/> Revise responsibilities (Explain as noted in 7 below), and indicate revised responsibilities).            c. <input type="checkbox"/> Merge (Explain as noted in 7 below, and provide name of committee(s) with which it is to be merged).            d. <input type="checkbox"/> Terminate (If this is a statutory committee, indicate whether legislation is required to carry out the recommendation and whether such legislation is contemplated or pending).            e. <input type="checkbox"/> Requires further review (Specify the problem holding up recommendation and the date decision can be expected).         </div>		
7. Explain agency recommendation checked above. Use numbered bond sheets; indicate the agency and the name of the committee on each sheet. Justification for continuation of a committee should include details on factors listed below. <div style="margin-top: 5px;">           a. Number of times the committee has met in the past year.            b. Number of reports submitted by the committee in the past year.            c. Describe the value of the committee's reports, recommendations, or information to the agency's programs or operations (an overall substantive statement).            d. Detail the extent of agency utilization of the committee's recommendations or information in policy formulation, program planning, decision making, accomplishing program objectives more effectively, achieving economies, etc. (a breakdown of the value judgment given in c above).            e. Explain why the recommendations or information cannot be obtained from sources within the agency, in other agencies, or from other advisory committees.            f. Explain any degree of duplication of efforts of other committees or within the agency or in other agencies.            g. Annual cost of the committee.            h. Outline the agency's plan for achieving balance in the membership of the committee or state basis for view that adequate balance has been achieved. In general, consider (1) the functions to be performed and (2) the points of view to be represented.            i. Describe any other criteria used in the agency review that indicated continuation of the committee is necessary and in the public interest. An example might be the future plans of the committee, expressed in specific and well-defined elements -- not merely a conceptual framework.         </div>		



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

February 5, 1976

CIRCULAR NO. A-63  
Transmittal Memorandum No. 4

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Advisory Committee Management -- Uniform Pay  
Guidelines

1. Purpose. This Transmittal Memorandum clarifies Section 11, Circular No. A-63, Revised, dated March 27, 1974, relating to pay and other compensation of members, staff, and consultants of advisory committees.

2. Background. Section 7 of Public Law 92-463 provides that "the Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors." Pursuant to the foregoing authority, the Director included uniform pay guidelines as Section 11 of Circular A-63, March 27, 1974. The revisions set forth below are designed to clarify Section 11.

3. Revisions.

(a) Renumber the present subparagraphs a., b., c., d., and e., of Section 11 as subparagraphs b., c., d., e., and f., respectively.

(b) Insert the following as subparagraph "a.":

"a. General

(1) Authority. The guidelines in this paragraph are established under the authority of Section 7(d) of the Federal Advisory Committee Act, 86 Stat. 773.

(2) Applicability. The guidelines in this paragraph shall apply to the pay of members, staff, and consultants of an advisory committee, except that

(A-63)

nothing in this paragraph shall affect a rate of pay or a limitation on a rate of pay that is specifically established by statute or a rate of pay established under the General Schedule classification and pay system in Chapter 51 and subchapter III of Chapter 53 of title 5, United States Code."

(c) Add the following new subparagraph "g.":

"g. Nothing in this paragraph shall prevent -

(1) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(2) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States."

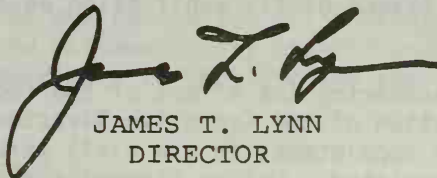
4. Explanation. New subparagraph "a(1)" is added to state the authority for establishment of the uniform pay guidelines.

New subparagraph "a(2)" is added to clarify the applicability of the guidelines by making it clear that the guidelines do not affect the rate of pay or a limitation on a rate of pay that is specifically established by statute or a rate of pay established under the General Schedule classification and pay system.

New subparagraph "g" is added to clarify the status and pay of full-time Federal employees serving on advisory committees.

5. Effective Date. This Transmittal Memorandum is effective immediately.

6. Inquiries. Inquiries or requests for assistance should be directed to the Committee Management Secretariat, Office of Management and Budget, telephone 395-5193 (code 103).



JAMES T. LYNN  
DIRECTOR





COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-179188

January 31, 1974

The Honorable  
The Secretary of Health, Education, And Welfare

Dear Mr. Secretary:

Reference is made to a letter dated July 12, 1973, from the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, requesting our decision as to whether under the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 1 et seq., the salary of the Executive Director of the National Advisory Council on Vocational Education must be reduced.

It appears that the Council hired its present Executive Director under the provisions of section 104(a)(4) of the Vocational Education Amendments of 1968, Pub. L. 90-576, October 16, 1968, 82 Stat. 1064, 1067, 20 U.S.C. 1244(a)(4) which authorize the Council to engage such technical assistance as may be required without regard to the civil service laws. When the present Executive Director was hired, the Council apparently negotiated with him the salary he was to receive. The Council apparently does not consider the Executive Director to be eligible for civil service retirement or other Federal employee benefits and presently he receives an annual salary of \$36,000 plus payments toward retirement amounting to \$6,888 per year. Thus, the total compensation of the Executive Director amounts to \$42,888 per year.

Since the payments to the Executive Director exceed \$36,000 per year--the compensation authorized for employees in grade GS-18--the Assistant Secretary for Administration and Management has questioned whether section 7(d)(1)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 7(d)(1)(A) (supp. II), which provides that no member of any advisory committee or its staff shall receive compensation at a rate in excess of that specified for GS-18 of the general schedule under 5 U.S.C. 5332 is applicable to the Executive Director's position. If that restriction is applicable the Assistant Secretary requests our decision as to the effect of its application on the Executive Director's compensation.

Before considering the effect of the Federal Advisory Committee Act on the compensation of the Executive Director we must examine the basic authorities for appointment in the civil service and the provision under which he was appointed. Unless otherwise excepted, the provisions of

the Classification Act of 1949, 63 Stat. 954, as amended, now codified generally in chapters 51 and 53, title 5, U.S. Code, apply to all civilian positions and employees in or under an agency. See 5 U.S.C. 5102 and 5331. In this regard 5 U.S.C. 5102(a) defines "employee" as an individual employed in or under an agency and the definition of an "agency" under this section includes an Executive agency which is defined in 5 U.S.C. 105 to include "an Executive department, a Government corporation and an independent establishment."

Accordingly, it appears that personnel employed by the Council are civilian employees in or under an agency and are subject to the provisions of chapter 51 and subchapter III (General Schedule Pay Rates) of chapter 53 of title 5, United States Code, unless otherwise excepted.

Section 1244(a)(4) of title 20, United States Code, authorizes the Council to engage technical assistance as follows:

"The Council is authorized without regard to the civil service laws, to engage technical assistance as may be required to carry out its functions \* \* \*."

Our Office has held that the civil service laws and regulations, having to do with appointments, and the provisions of the Classification Acts of 1923 and 1949, having to do with the fixing of salary rates, are separate and distinct statutes with entirely different scopes and purposes. 17 Comp. Gen. 578 (1938) and 31 Comp. Gen. 314 (1952). Although those provisions and the Classification Act were incorporated in the codification of title 5, U.S. Code, we do not believe that the wording of the 1968 Act may be viewed as being broader in scope than was previously the case by virtue of that codification. Since 20 U.S.C. 1244(a)(4) only authorizes the Council to engage technical assistance without regard to civil service laws and does not specifically exempt any personnel so appointed from the provisions of the Classification Act or the provisions of title 5, U.S. Code, dealing with compensation, it appears that the Executive Director employed by the Council is subject to the salary fixing provisions of subchapter III of chapter 53 of title 5, United States Code.

Since it appears that the Executive Director of the Council is subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, and the maximum salary payable under these provisions is \$36,000, it is not necessary to consider the applicability

of section 7(d)(1)(A) of the Federal Advisory Committee Act to the Executive Director's position at this time. However, 5 U.S.C. 5103 vests in the Civil Service Commission the jurisdiction to determine finally the applicability of the classification provisions to specific positions and employees. We therefore suggest that an authoritative ruling be obtained from the Commission on this matter as well as on the question whether he is subject to the civil service retirement provisions.

After the proper rate of pay for the Executive Director has been established and the amount of the Director's indebtedness has been determined, such indebtedness may be considered for waiver in accordance with 5 U.S.C. 5584 and subchapter G of chapter I of title 4, Code of Federal Regulations.

Sincerely yours,

(Sgd.) R.F. Keller Deputy

Comptroller General  
of the United States

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-179188

DATE: April 15, 1975

MATTER OF: National Advisory Council on Extension and Continuing Education--Clarification of status of Presidential Advisory Councils.

- DIGEST: 1. B-179188, January 31, 1974, 53 Comp. Gen. 531, applies to all Presidential advisory councils associated with Office of Education (OE), since all come within purview of Pub. L. No. 91-230 (20 U.S.C. § 1221 et seq.) and Congress' intent in Pub. L. No. 91-230 was to create uniform standards and requirements for all advisory councils associated with OE and advisor councils relating to education.
2. Although 20 U.S.C. § 1233d(a) provides that Presidential advisory councils are authorized to appoint personnel without regard to Title 5, United States Code, Presidential advisory councils associated with Office of Education are subject to classification and pay setting provisions of Title 5 since they were not specifically exempted and specific rulings on such matters are within jurisdiction of Civil Service Commission and Director, Office Management and Budget under the provisions of Pub. L. No. 92-463, 86 Stat. 770, 5 U.S.C. App. 1.
3. Staff of Presidential advisory councils associated with OE are not Department of HEW employees and may be appointed by each council without regard to availability of Department of HEW slots.
4. Although Presidential advisory councils associated with OE enjoy considerable independence in matters of program and policy recommendations and in appointing their own staffs, they are nevertheless subject to the administrative controls set forth in the Federal Advisory Committee Act of 1972 and the implementing OMB and Department of HEW guidelines.

This action is in response to a letter dated May 24, 1974, from the Chairman, National Advisory Council on Extension and Continuing Education, requesting a decision on several questions concerning the interpretation of 53 Comp. Gen. 531 (1974), (cited in the letter as B-179188).



In the above-cited decision, a distinction was drawn between laws affecting the appointment of staff to the National Advisory Council on Vocational Education and the classification of staff positions. The Commissioner of Education, Department of Health, Education, and Welfare, interpreted the decision to mean that the Office of Education was responsible for appointing council staff for the National Advisory Council on Extension and Continuing Education. The Chairman of that Council questions whether the Commissioner's interpretation has exceeded the intent and purpose of the decision of January 31, 1974.

Specifically, the Chairman asked whether:

- "1) it was the intent of the Deputy Comptroller General to apply that decision to all other Presidential Advisory Councils; and
- "2) whether it was the intent of the Deputy Comptroller General to assign to the Office of Education the responsibility to 'take action to appoint council staff as Federal employees'?"

The Chairman further requested a clarification as to the exact legal status of the National Advisory Council on Extension and Continuing Education.

With reference to question one, generally decisions of this Office are applicable to those cases which involve similar circumstances. Considering the number and variety of federal advisory councils in existence and the fact that the applicability of the classification provisions of 5 U.S.C. § 5102 to specific positions and employees is within the jurisdiction of the Civil Service Commission as provided by 5 U.S.C. § 5103, we cannot make a general statement that our decision is applicable to all Presidential advisory councils. However, 53 Comp. Gen. 531 does apply to the Presidential Advisory Council created to advise and make recommendations to the Office of Education, including the National Advisory Council on Extension and Continuing Education, since those Councils come within the purview of the General Education Provisions Act of 1970 (GEPA), Pub. L. No. 91-230, 84 Stat. 165, for which uniform standards and requirements are set forth in subchapter III on Advisory Councils, 20 U.S.C. § 1231 et seq. See S. Rep. No. 91-634 (1970), pp. 2816 and 2827, respectively, of the U.S. Code Congressional and Administrative News. See also Conf. Rep. No. 91-937, March 24, 1970, Statement of the Manager on the part of the House, p. 2951, U.S. Code, Cong. & Adm. News

With reference to question two, the above cited subchapter on advisory councils assigns to the Commissioner of Education certain administrative responsibilities for the various Presidential advisory councils associated with the Office of Education. However, distinctions are made between advisory councils established and organized pursuant to an applicable statute and those established administratively by the Commissioner of Education or the Secretary of the Department of HEW. 20 U.S.C. § 1233d directs the Commissioner to engage personnel and technical assistance for Secretarial and Commissioner--established advisory councils but Presidential advisory councils (defined at 20 U.S.C. § 1233(4) as "a statutory advisory council, the members of which are appointed by the President") may make their own appointments of professional, technical, and clerical personnel, including temporary and intermittent personnel. 20 U.S.C. § 1233d(a) and (c). It was not the intent of this Office nor did we state in our decision of 53 Comp. Gen. 531 that the Office of Education was responsible for taking "action to appoint council staff as Federal employees." While the Commissioner of Education has certain administrative responsibility for the activities of all advisory councils to his office, discussed infra, since council staff are Federal employees but not necessarily office of HEW employees, the appointment function continues to rest with the respective councils concerned.

Although the responsibility for making staff appointments to statutory councils under 20 U.S.C. § 1233d et seq., clearly belongs to the Councils themselves, such appointments must be made with due regard to the classification and salary fixing provisions of chapter 51 and subchapter III of chapter 53, title 5, United States Code. In this regard, as we pointed out in 53 Comp. Gen. 531, there is a distinction between "the provisions of title 5, governing appointments in the competitive service," from which such councils are exempted by 20 U.S.C. § 1233d(a) and the above-cited classification and salary provisions of title 5, from which they are not exempted. The classification of positions according to published standards is generally a responsibility of the Civil Service Commission (CSC), after consultation with the agencies concerned. In addition, all advisory committees in the executive branch are subject to the provisions of the Federal Advisory Committee Act of 1972, Pub. L. No. 92-463, 86 Stat. 770, codified at 5 U.S.C. App. I. Section 7 places overall responsibility concerning advisory commissions in the Director, Office of Management and Budget. Section 7(d)(1) provides in part:

"The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees \* \* \*."

Guidelines were published by the Office of Management and Budget (OMB) pursuant to Executive Order No. 11769. See OMB Circular No. A-63, dated March 27, 1974.

With regard to the question as to "the exact legal status of the National Advisory Council on Extension and Continuing Education," we note that the nature of GEPA advisory councils is described in the legislative history as follows:

"Advisory councils are not, as a general rule, executive agencies or part of executive agencies, since they do not execute the law. They are independent advisory bodies designed to serve both the legislative and executive branches of the Government." 1970 U.S. Code Cong. Adm. News, p. 2828.

The above passage appears to use the term "independent" in describing advisory councils to distinguish them from the executive and legislative bodies they serve. It is clear that GEPA advisory councils were not intended to be part of Department of HEW and their staffs are not Department of HEW employees. Therefore, appointments of council personnel are not subject to the availability of OE slots, as suggested in the May 24, 1974 memorandum from the Department of HEW Deputy Assistant General Counsel (included in the submission to this Office), nor is the selection of such personnel and their classification and appointments an appropriate administrative responsibility of the Department.

We also note that the functions of GEPA statutory advisory committees contemplate independence of judgement with respect to policy and program recommendations made to the Commissioner and to the Congress. However, these councils are not totally exempt from all control for other purposes. Subsection (a) of 20 U.S.C. § 1233f provides:

"Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils and shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions."



In addition, section 8 of the Federal Advisory Committee Act of 1972 and section 5b of OMB Circular No. A-63 provide generally that the head of each agency which uses an advisory committee shall issue regulations which apply to all advisory committees used by the agency. The guidelines further provide that each agency shall maintain information on the nature, functions, and operations of each of its advisory committees.

In summary, the National Advisory Council on Extension and Continuing Education is a Presidential advisory council with considerable independence from the agency it serves, the Department of HEW, with respect to the program and policy recommendations it makes to the Commissioner and to the Congress and in the selection of its own staff. It is, however, subject to classification and salary provisions of title 5 of the United States Code and to the specific administrative controls prescribed by the Federal Advisory Committee Act of 1972 and the OMB and Department of HEW regulations which implement it.

(Sgd) R.F. Keller

(Deputy) Comptroller General  
of the United States





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
WASHINGTON, D.C. 20202

April 23, 1974

Mr. Joseph Upicksoun  
Chairman, National Advisory  
Council on Indian Education  
Arctic Slope Regional  
Corporation  
P.O. Box 566  
Barrow, Alaska 99723

Dear Mr. Upicksoun:

This will confirm our conversation in which I advised you of actions which the Department must take regarding the staffing of Presidential advisory councils.

As I stated, the Department received a decision from the Comptroller General dealing with the applicability of Federal pay limitations to the compensation of staff employed by advisory councils. The decision raised issues relating to the basic employment status of advisory council staffs by questioning whether council employees should be regarded as civilian employees of the Department. As a result of this decision and subsequent meetings and discussions between representatives of our Office of General Counsel and Personnel Staffs as well as the Office of General Counsel of the Civil Service Commission and the General Accounting Office, it was determined that the statutory authority which permits advisory councils to hire staff has been misinterpreted. We are advised that this authority permits appointments without regard to laws governing competitive selection, but does not exclude the personnel from the Federal appointment process, laws governing position classification and pay, or employee benefits.

Accordingly it will be necessary for the Office of Education to take action to appoint council staff as Federal employees. This will require that the position of each employee be classified and the employee appointed at the rate appropriate for the position and the employee's total service. In the event pay adjustments are necessary they will be handled on an individual basis and, if necessary, waiver of past overpayments will be sought from the General Accounting Office. Staff will be appointed and positions classified on the basis of the duties which are now being assigned and performed. At a later date, a position and manpower review will be scheduled.

In the meantime, you should take immediate action to insure that the total compensation of any employee does not exceed \$36,000. Where salary and benefits exceed this amount, adjustments in either salary or benefit payments must be made. This should be accomplished as quickly as administratively feasible, but no later than the end of your current pay cycle. I would appreciate it if you would quickly designate an individual who will be available to work with OE staff on accomplishing the necessary personnel and administrative actions. You may inform Ms. Ann Bailey, Acting Committee Management Officer, of this designation. Her telephone number is 245-7960.

I realize the anxiety and workload this action will cause the Council and members of the staff. Let me assure you that all of us in the Office of Education will do everything in our power to see that the transition is accomplished with the minimum of disruption. I know we can count on your cooperation in carrying out our responsibilities.

Sincerely,

(Sgd) John Ottina

John Ottina  
U.S. Commissioner  
of Education

## MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF THE SECRETARY

TO: Edward T. York  
Deputy Commissioner of Education for  
Planning, Evaluation and Management

FROM: Burton Berkley  
Deputy Assistant General Counsel  
Business and Administrative Law Division

SUBJECT: Legal Status of Office of Education Presidential Advisory Councils

DATE: May 24, 1974

Members of your staff have requested this office to prepare a legal opinion setting forth the status of the eight Presidential Advisory Councils associated with the Office of Education and relating to education programs. The Comptroller General's decision of January 31, 1974, does not answer this question. That decision merely holds that personnel employed by these Councils are "civilian employees in or under an agency" and that an agency is defined in 5 U.S.C. Section 105 to include "an executive department, a government corporation, and an independent establishment". Accordingly, in order to implement this decision by classifying the Council staff members as Government employees, which the Comptroller General finds they always have been, it will be necessary to determine what the legal status of these councils is. Essentially, there are three possibilities:

- 1) They are completely independent establishments in the Federal Government.
- 2) They are within DHEW but not within OE.
- 3) They are within OE.

Congress, in Part D of the General Education Provisions Act (20 U.S.C. Sections 1233-1233g.), set down rules to govern all advisory councils relating to the Office of Education or to education programs. The section relating to staffing these councils (20 U.S.C. Section 1233d.(a)) reads:

"Presidential advisory councils are authorized to appoint, without regard to the provisions of Title 5, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions, as prescribed by law." 1/

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1/ The Comptroller General opinion discussed 20 U.S.C. Section 1244(a)(4), which relates directly to the National Advisory Council on Vocational Education. This section reads in relevant part:

"The Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions. . . ."

We do not believe that any different result would have been reached under GEPA because Section 1244(a)(4) is even broader than Section 1233d.(a).

The Comptroller General held that the exclusion from the Civil Service Act contained in this section applied only to the appointment of such staff member, but it did not exclude them from the Classification Act and the Pay Act. Questions have now arisen, however, as to where the slots for these positions are going to come from, who is to classify these employees, and similar personnel and administrative matters. It is these questions which make it essential that the legal status of these councils be clarified as quickly as possible.

Congress clearly intended that the provisions of Part D of the GEPA apply to these councils. Its legislative history states (1970 U.S. Code Cong. and Adm. News, page 2902):

"Part C of title IV of Public Law 90-247 sets forth uniform standards and requirements for all advisory councils associated with the Office of Education and advisory councils relating to education programs."

20 U.S.C. Section 1233(f)(a) states, in pertinent part:

"Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils.  
\* \* \* ." 2/

It is our opinion that this section clearly places all advisory councils associated with the Office of Education and those relating to education programs under the general supervision of the Commissioner of Education.

In the legislative history in the GEPA, however, the following statement is made as to the nature of these advisory councils (1970 U.S. Code Cong. Adm. News, page 2828):

"Advisory councils are not, as a general rule, executive agencies or part of executive agencies, since they do not execute the law. They are independent advisory bodies designed to serve both the legislative and executive branches of the Government." 3/

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2/ Presidential Advisory councils are defined by GEPA merely as statutory advisory councils whose members are appointed by the President. Cf. Section 3(4) of the Advisory Committee Management Act, 5 U.S.C. App. I, which defines such councils for purposes of that Act as councils advising the President.

3/ We do not believe that the legislative history of the National Advisory Council on Vocational Education, which refers to that council as an "outside agency", shows any contrary intent because "agency" is not used in its technical sense.



Construing Section 1233f(a) in the light of this legislative intent would indicate that the Commissioner's general supervisory powers over the councils must be in the administrative, rather than the policy or programmatic, area. Indeed, such a position seems to be compelled by a consideration of 20 U.S.C. Section 1233b(2), which states, in relevant part:

"Notwithstanding any other provisions of law unless expressly in limitation of the provisions of this section, each statutory advisory council --

\* \* \*

shall make an annual report of its activities, findings, and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report."

For these reasons set forth above, it is the opinion of this office that the procedure which OE is presently following, i.e., classifying the staff positions for the Presidential Advisory Councils, supplying the slots, terminating the outstanding interagency agreements between OE and each of the councils so that their activities will be financed and administratively monitored through the Office of Education, and making similar administrative changes, constitute the proper way of implementing the Comptroller General decision.

# Indian Self-Determination and Education Assistance Act

*Statement by the President Upon Signing the Bill Into Law. January 4, 1975*

I have signed into law S. 1017, the Indian Self-Determination and Education Assistance Act. My Administration is committed to furthering the self-determination of Indian communities without terminating the special relationships between the Federal Government and the Indian people.

The Congress is to be congratulated for its passage of this legislation. It will enhance our efforts to implement this policy of Indian self-determination.

Title I of this act gives the permanence and stature of law to the objective of my Administration of allowing—indeed encouraging—Indian tribes to operate programs serving them under contract to the Federal Government. Furthermore, with the passage of this act Indian communities and their leaders now share with the Federal Government the responsibility for the full realization of this objective. It will be through the initiatives of Indian communities that the authorities provided in this act will be implemented. I urge these communities to make the fullest possible use of them and pledge the support of this Administration.

In addition to making this kind of contracting a right, the act does much to make it feasible and practical. For example, it authorizes the Bureau of Indian Affairs to make grants to tribal organizations to help them develop the abilities of potential workers—through training and other means—to operate these programs. At the request of the tribe, it also allows Federal employees who work in programs transferred to tribal operation to continue working without losing Federal fringe benefits, thus making it possible for the tribe to begin operation with a nucleus of experienced employees.

The granting authority provided in this act can also be used to strengthen tribal governments and tribally-funded programs.

Title II, the Indian Education Assistance Act, amends the Johnson-O'Malley Act to give the Indian community a stronger role in approving or disapproving the use of funds for children in public schools. It also provides for better planning in the use of these funds to meet the educational needs of the Indian students.

The enactment of this legislation marks a milestone for Indian people. It will enable this Administration to work more closely and effectively with the tribes for the betterment of all the Indian people by assisting them in meeting goals they themselves have set.

NOTE: As enacted, the bill (S. 1017) is Public Law 93-638, approved January 4, 1975.

SECTION-BY-SECTION SUMMARY OF PUBLIC LAW 93-638 (S.1017)  
INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Section 1  
Short Title

This section provides that the Act may be referred to as the "Indian Self-Determination and Education Assistance Act."

Section 2  
Congressional Findings

Contains a statement of congressional findings relative to Indian self-determination and education.

Included is a statement that the Federal domination of Indian service programs has denied an effective voice to the Indian people in the design and operation of programs for their benefit. It also states that this has retarded the development of leadership skills by Indians and has adversely affected the degree to which these programs are truly responsive to the needs of the Indian people.

A further finding is that true self-determination requires an effective educational process and that the Federal efforts to date have not been sufficient and that parental and community control of the educational process is of crucial importance to the Indian people.

Section 3  
Declaration of Policy

Contains a congressional policy declaration. First, a Federal obligation to be responsive to the principle of self-determination through Indian involvement, participation, and direction of educational and service programs. Second, a Federal commitment, based on the unique Federal-Indian relationship to foster and encourage Indian self-determination through Indian participation in those programs and services which affect them. Third, a major national goal to provide educational services and opportunities which will enable Indians to compete and excel in the life areas of their choice.

Section 4  
Definitions and consent requirement

Section 4 defines certain terms for purposes of this Act.

(a) "Indian" is defined as any member of an Indian tribe.

(b) "Indian tribe" is defined as federally recognized bodies, including Alaska Native villages and regional corporations, for which Federal services are provided because of their Indian identity.

(c) "tribal organization" is defined as the governing body of an Indian tribe or any organization created by or controlled, directly or indirectly, by such governing body. A proviso precludes contracts or grants to an organization to perform services benefitting more than one tribe unless each tribe approves.

(d) "Secretary" means the Secretary of the Interior unless otherwise specified.

(e) "school district" means the State public school districts through grade 12.

(f) "State education agency" means the statewide agency or officials responsible for State public school education.

#### Section 5

##### Records, Audits, Reports, and Unused Funds

Requires each recipient of financial assistance under the act to (a) keep records, (b) provide for access by the GAO and Interior Department auditors to the records of such recipients for three years, (c) make reports on their activities available to the Indian people served or represented by such recipient, and (d) return unused funds to the U.S. Treasury (but see section 107(h) below).

#### Section 6

##### Criminal Penalties

Provides for criminal penalties for anyone who embezzles, willfully misapplies, steals, or obtains by fraud any money, assets, or property which are the subject of a contract, subcontract, grant, or subgrant under this Act or the Johnson O'Malley Act (25 U.S.C. 452).

#### Section 7

##### Labor Standards - Indian Preference

Provides that prevailing wage rates and other Federal labor standards requirement shall apply to construction work in connection with contracts and grants under the Act. It also require that to the greatest extent feasible, preferences shall be given to the employment of Indians and the award of subcontracts and subgrants to Indians in connection with contracts and grants under the Act, the Johnson O'Malley Act, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians.



Section 8  
Carryover of Funds

Authorizes funds appropriated pursuant to the Snyder Act for any fiscal year which remain unobligated and unexpended at year end to remain available for obligation and expenditure in the following year.

TITLE I - THE INDIAN SELF-DETERMINATION ACT

Section 101

Short Title

This section provides that title I may be cited as the "Indian Self-Determination Act."

Section 102

Contracting by the Secretary of the Interior

Directs the Secretary of the Interior, at the request of a tribe, to contract with any tribal organization to carry out the services and programs the Federal government provides to Indians under authority of the Johnson-O'Malley Act, as amended, the Snyder Act of 1921 (25 U.S.C. 13), and any subsequent Acts. (Also see section 106).

The Secretary may initially decline to enter into a requested contract if he finds that the services to the Indian beneficiaries will not be satisfactory; adequate protection of trust completed or maintained by the proposed contract. In deciding whether to initially decline a contract, the Secretary is to consider whether the tribal organization would be deficient as to (1) equipment, (2) bookkeeping and accounting procedures, (3) substantive knowledge of the program to be contracted, (4) community support for the contract, (5) adequately trained personnel, or (6) other necessary components of contract performance.

Where a contract is initially declined, subsection (b) requires the Secretary to (1) state his objections in writing to the tribe within 60 days, (2) provide to the extent practicable assistance (see section 104 below) to the tribal organization to overcome his objections, and (3) provide the tribe with a hearing and (where he has delegated the authority to decline a contract) an opportunity to appeal the decision.

Section 104

Discretionary Grant and Contract Authority

Section 104(a) authorizes the Secretary of the Interior to utilize funds appropriated for the benefit of Indians for contracts with or grants to any tribal organization, upon the request of an Indian tribe, for purposes such as the strengthening and improvement of tribal government, the

development and operation of tribal facilities and resources, the planning, training and other activities necessary to improve the capacity to contract under section 102, the additional costs associated with the initial years of operation under a section 102 contract, and the acquisition of land in connection with the foregoing. The title to such land may (upon the tribe's request) be taken in trust by the Secretary for the tribe. Such grants may also be utilized in the planning, designing, monitoring, and evaluating of federal programs serving the tribe.

Subsection (b) authorizes grants by the Secretary of HEW to any tribal organization for (1) the development, construction, operation, provision, or maintenance of adequate health facilities or services including the training of personnel for such work and (2) planning, training, evaluation, or other activities designed to improve the capacity to contract under section 103.

Subsection (c) provides that funds provided under section 104 grants may be utilized as matching shares for any other Federal grant programs which contribute to the purposes for which section 104 grants are made.

#### Section 105 Personnel

Subsections (a) and (d) provide for participation by Indian tribes under the Intergovernmental Personnel Act programs administered by the U.S. Civil Service Commission. Under 5 U.S.C. 3371 et. seq. tribal organizations are eligible for temporary (up to 2 years renewable for up to 2 more years) assignments to them of Federal (not limited to Interior Dept. or HEW) employees and for similar assignment of tribal employees to Federal agencies. Funding arrangements are determined by mutual agreement of the tribal organization and Federal agency involved. The authority for assignment of BIA and IHS employees to tribes under 25 U.S.C. 48 is not altered. (See also subsection (j) below). Under 42 U.S.C. 4721, 4762 any Indian tribe which performs substantial governmental functions (the same test applied under the General Revenue Sharing Program administered by the Treasury Department) is eligible for grants from the Civil Service Commission to upgrade and improve tribal personnel systems or aid tribal personnel training programs. Tribal grant applications are not reviewable by the State Governor.

Subsections (b) and (c) relate to the assignment of Public Health Service Commissioned Officers to tribal organizations.

Subsections (e) thru (i) of section 104 provide that any Civil Service employee (not limited to Interior Department or HEW employees) who leaves Federal employment on or before December 31, 1984, to be employed by a

tribal organization in connection with governmental or other activities which are or have been performed by such employees in or for Indian communities (not limited to those performed for the tribe involved), is entitled, if he and the tribal organization so elect, to retain his civil service "fringe" benefits for "Compensation for Work Injuries", "Retirement", "Health Insurance", and "Life Insurance". The usual employee deductions and agency contributions by the tribal organization are required for continuation of these benefits. There is no time limit on the continuation of these benefits.

Subsection (j) provides that neither Federal employees assigned to tribes under the Intergovernmental Personnel Act or under 25 U.S.C. 48 nor former Federal employees employed by tribes, are subject to the provisions in 18 U.S.C. 205 and 207 which could restrict their activities on behalf of tribes in dealing before Federal agencies or in litigation involving the United States.

### Section 106

#### Administrative Provisions & Retrocession

Subsection (a) authorizes the Secretary to waive any Federal contracting laws or regulations which he determines are not appropriate for the purposes of the contract involved or inconsistent with the provisions of this Act. As provided in section 7(a), prevailing wage requirements will be applicable.

Subsection (b) authorizes advance payments or reimbursement for payments under any grants or contracts under the Act. Funds are to be transferred so as to minimize the elapsed time between transfer from the U.S. Treasury and disbursement by the tribal organization. Tribal organizations may retain any interest earned on such funds while pending disbursement by the organization.

Subsection (c) provides that section 102 contracts shall be for a term not to exceed one year unless the Secretary determines that a longer term would be advisable. Such longer term may not exceed three years and shall be subject to the availability of appropriations. The amount of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases, beyond the control of a tribal organization (such as increased fuel and food costs for a school).

Subsection (d) authorizes the amendment of any contract or grant under section 102 or 104 as necessary to carry out the purposes of title I. It also provides that whenever a tribe requests retrocession for any contract under the Act, such retrocession shall become effective upon a date within 120 days as specified by the Secretary or such later date as may be mutually agreed to.

Subsection (e) authorizes the Secretary to permit a contract or grant recipient to utilize Government buildings, facilities, equipment, and personal property.

Subsection (f) of section 106 provides that section 102 contracts and section 104 grants "may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants for assistance, benefits, or services to be provided and the provision of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the \* \* \* Secretary: Provided, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals."

Subsection (g) requires that the section 102 contracts, the section 104 grants, and the regulations adopted pursuant to section 107 include provisions to assure the fair and uniform provision of the services and assistance provided to Indians under such contracts and grants.

Subsection (h) provides that the amount of funds provided under section 102 shall not be less than the "Secretary would have otherwise provided for his direct operation of the program or portion thereof for the period covered by the contract: Provided, That, any savings in operations under such contracts shall be utilized to provide additional services or benefits under the contract." The proviso modifies somewhat for section 102 contracts the general requirement relating to unused funds in section 5 which is applicable to both title I and title II.

#### Section 107

##### Promulgation of Rules and Regulations

Section 107(a) authorizes the Secretary to perform all necessary acts and make such rules and regulations as are necessary in carrying out title I.

Subsection (b) provides a schedule of maximum time periods for the preparation and issuance of regulations implementing title I including provision for consultation with national and regional Indian organizations (within six months of enactment), presentation of proposed regulations to the Congressional Interior Committees (within seven months), Federal Register publication for comment of the proposed regulations (within eight months), and final promulgation of regulations to implement title I within ten months of enactment.

Subsection (c) provides for amendment of the regulations and requires presentation of proposed changes to the Interior Committees and "to the extent practicable" consultation with appropriate Indian organizations and publication in the Federal Register at least sixty days before the effective date of the amendment.



Section 108  
Reports

Section 108 requires an annual report from each Indian tribe with respect to operations and expenditures by their tribal organization under contracts or grants which had been requested by such tribe.

Section 109  
Reassumption of Programs

Section 109 provides for situations where the Secretary determines that the performance of a tribal organization under a contract or grant involves (1) the violation of the rights or endangers the health, safety, or welfare of any persons, or (2) gross negligence or mismanagement in the handling or use of funds. Provision is to be made for notice to such a tribal organization and a hearing is to be held to provide an opportunity for the organization to take corrective action as prescribed by the Secretary. If such action is not taken, the Secretary may rescind such contract or grant agreement and assume or resume control or operation of the program, activity, or service involved.

Provision is also made for immediate rescission by the Secretary if he finds that there is an immediate threat to health or safety with a hearing to be held within 10 days.

Section 110  
Effect on Existing Rights

Section 110 provides that nothing in the Act shall be construed as altering or impairing the sovereign immunity from suit enjoyed by any Indian tribe or to authorize or require the termination of any existing U.S. trust responsibility to Indian people.

Title II - Indian Education Assistance Act

Section 201 provides that title II may be cited as the "Indian Education Assistance Act."

Part A is entitled "Education of Indians in Public Schools" and includes sections 202 and 203.

Section 202 adds three new sections to the Johnson-O'Malley Act relating to contracts "for the education of Indians". It should be noted that the current JOM Act, sections 1, 2, and 3 (25 U.S.C. 452-454), provides broader

authority than just for contracts involving education. Such authority includes "education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians \* \* \*." However, the amendments in section 202 relate only to education.

The new JOM section 4 added by section 202 precludes the Secretary from entering into any contract for the education of Indians "unless the prospective contractor has submitted to, and has had approved by the Secretary \* \* \*, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian children who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives \* \* \*." The new section 4 also includes the following proviso:

"Provided, That where students other than Indian students participate in such programs, money expended under such contract shall be prorated to cover the participation of only the Indian students."

The new JOM section 5 provides for the establishment of a local committee composed of parents of the Indian children served under a JOM contract in those cases where the elected school board is not composed of a majority of Indians. Such committee is to fully participate in the development of and shall have the authority to approve or disapprove programs to be conducted under JOM contracts.

The new JOM section 6 authorizes the Secretary to pay the "full per capita cost" of educating Indian students in public schools if such students are not normally residents of the State in which the school is located and if they are residing in BIA boarding facilities.

Section 203 requires the Secretary of the Interior, in consultation with the Secretary of HEW, to submit to the Interior Committees by October 1, 1975, a report on the factors determining the allocation of JOM education funds and the relationship of such JOM assistance to various HEW programs providing financial assistance to school districts. The report is to also include a specific program to meet the special educational needs of Indian children with "a plan for the equitable distribution of funds to meet the special or supplemental education needs of Indian children and, where necessary, to provide general operating expenditures to schools and school districts educating Indian children" together with cost estimates and "detailed legislative recommendations to implement the program \* \* \*." In addition, the Secretary is to provide "a specific program, together with detailed legislative recommendations, to assist the development and administration of Indian controlled community colleges."

Part B relates to non-Federal school construction and includes only section 204.

Section 204(a) authorizes the Secretary of the Interior to contract with public school agencies to assist them "in the acquisition of sites for, or for the construction, acquisition, or renovation of facilities (including all necessary equipment) in school district on or adjacent to or in close proximity to any Indian reservation or other lands held in trust \* \* \* if such facilities are necessary for the education of Indians residing on any such reservation or lands."

Section 204(b) provides for expenditure of not less than 75% of the funds "authorized and appropriated pursuant to this part B on those projects which meet the eligibility requirements under" P.L. 81-815 as amended (20 U.S.C. 631 et. seq.). "Such funds shall be allocated on the basis of existing funding priorities, if any, establish by the United States Commissioner of Education" under such P.L. 81-815. Thus, the Interior Department need not establish any staff, mechanism, or criteria to select public school projects for funding under this section.

Section 204(c) provides that the Secretary may expend not more than 25% of the part B funds on "any school eligible to receive funds under section 208 of this Act." (See section 208 below).

Section 204(d) requires contracts under the section to require "the relevant State educational agency" to provide Indian students attending the facilities assisted under the section with "standards of education not less than those provided non-Indian students in the school district in which the facilities are situated" and such facilities are to meet the building codes and other standards applicable in the area.

Section 204(e) provides for consultation with any local committee of Indian parents (establish under the new JOM section 5 discussed above) and with the tribal governing body prior to execution of a contract under the section. Such consultation is advisory only.

Section 204(f) require the submission of an evaluation report to the Congress after three years of operation under the section. The report is to include cost information, a description of the Interior Department's working relationships with HEW and local or State educational agencies, projections of future public school construction needs to serve Indian children on or near reservations, and the Secretary of the Interior's recommendation with respect to the transfer of the responsibility for administering the Indian related financial assistance provisions of P.L. 81-815 as amended and set out in 20 U.S.C. 644(a) and (b) from HEW to the Interior Department.

Section 204(g) authorizes the appropriation for the purposes of the section of \$35 million in each of five fiscal years beginning with 1976.

Part C includes "General Provisions" and sections 205-209 which conclude the bill.



OTHER FEDERAL EDUCATION PROGRAMS AS ADDITIONAL RESOURCES

TO SUPPLEMENT TITLE IV INDIAN EDUCATION PROGRAMS

INFORMATION INCLUDES -

Type of Assistance

Authorizing Legislation

Purpose

Appropriation

Who May Apply

Where To Apply

When To Apply

Key Personnel



Type of  
Assistance

Authorizing  
Legislation

Group 1: To Institutions, Agencies and Organizations

- |   |   |
|---|---|
| 1. Bilingual education<br>(OMB Cat. No. 13,403)   | Elementary and Secondary<br>Education Act, Title VIII         |
| 2. Follow Through<br>(OMB Cat. No. 13.433)  | Community Services Act<br>(P.L. 93-644), Title V              |
| 3. Programs for<br>disadvantaged Children<br>(OMB Cat. No. 13,428)  | Elementary and Secondary<br>Education Act, Title 1            |
| 4. Programs for Indian<br>children<br>(OMB Cat. No. 13.428)   | Elementary and Secondary<br>Education Act, Title 1            |
| 5. School library<br>resources and<br>instructional materials<br>(OMB Cat. No. 13.480)  | Elementary and Secondary<br>Education Act, Title 11           |
| 6. Special Grants to urban<br>rural school districts<br>with high concentrations<br>of poor children (OMB<br>Cat. No. 13.511) | Elementary and Secondary<br>Education Act, Title 1,<br>Part C |
| 7. State administration of<br>ESEA Title 1 programs<br>(OMB Cat. No. 13.430)  | Elementary and Secondary<br>Education Act, Title 1            |

Purpose	Appropriation
To develop and operate programs for children ages 3-18 who have limited English-speaking ability, to train bilingual education, to develop personnel, to improve bi-lingual education, to develop curriculum materials.	85,000,000
To extend into primary grades the educational gains made by deprived children in Head Start or similar preschool programs	53,000,000 - 60,000,000
To meet the educational needs of deprived children	2 Billion
To provide additional education assistance to Indian children in federally operated schools	17,567,233
To help provide school library resources, textbooks, and other instructional materials	95,250.000
To improve the education of disadvantaged children	38,000,000
To strengthen administration of ESEA, Title 1	19,315,021

Who May Apply	Where to Apply
1. Local education agencies or institutions of higher education applying jointly with local education agencies, institutions of higher education, and individuals	OE Grant Application Control Center
2. Local education or other agencies nominated by State education agencies in accordance with OE criteria	OE Grant Application Control Center
3. Local school districts	State education agencies
4. Bureau of Indian Affairs Schools	Bureau of Indian Affairs Department of Interior
5. Local education agencies	OE Office of Libraries and Learning Resources
6. Local school districts	State education agencies
7. State education agencies	OE Division of Education for the Disadvantaged



When to Apply	Key Personnel
March, 1975	Virginia Cassel 202-245-7133
No later than Jan. 5, 1976	Susan Green 202-245-2377
Varies from state to state	Lewis McGuinness 202-245-2694
Varies from state to state	Lewis McGuinness 202-245-2694
No deadline	Mary Helen Mahar 202-245-2488
Varies from state to state	Lewis McGuinness 202-245-2694
Varies from state to state	Lewis McGuinness 202-245-2694



Type of Assistance	Authorizing Legislation
8. Right to Read (OMB Cat. No. 13.533)	Cooperative Research Act (P.L. 83-531)
9. School health and nutrition services (OMB Cat. No. 13.523)	Elementary and Secondary Education Act, Title IV
10. Education and the Arts (OMB Cat. No. 13.566)	Education Amendments of 1974, Special Projects Act
<u>Part B: For Strengthening Organizational Resources</u>	
11. Interlibrary cooperation (OMB Cat. No. 13.465)	Library Services and Construction Act, Title III
12. Books and instructional materials (OMB Cat. No. 13.480)	National Defense Education Act, Title III
13. Teacher Corps (OMB Cat. No. 13.489)	Education Professions Development Act, Part B-1

Purpose	Appropriation
To provide facilitating services and resources to stimulate institutions, governmental agencies, and private organizations to improve and expand reading related activities.	12,000,000
To support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentrations of children from low-income families.	900,000
To encourage the establishment of art Programs at the elementary and secondary labels.	750,000
To establish and operate cooperative networks of libraries	2,594,000
To strengthen instruction of academic subjects in public schools	19,500,000
To strenthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides.	37,500,000

Who May Apply	Where to Apply
8. State and local education agencies, institutions of higher education, and other public and private nonprofit agencies	OE Grant Application Control Center
9. Local education agencies (exceptional cases, private nonprofit education organizations)	OE Grant Application Control Center
10. State and local educational agencies	OE Arts and Humanities Staff, Office of the Commissioner
11. State library administrative agencies	OE Office of Libraries and Learning Resources
12. State education agencies	OE Office of Libraries and Learning Resources
13. Institutions of higher education, local education agencies and State education agencies	OE Teacher Corps Office



When to Apply	Authorizing Legislation	Key Personnel	Type of Assistance
December	Education Amendments of 1965, Title IV-A, as amended	Bob Simmon 202-245-8537	Project in environment education (OMB Cat. No. 13-452)
Consolidated to Title IV	Alcohol and drug education program (OMB Cat. No. 13-450)	Margaret Power 202-245-8111	
March	Part C: For Postsecondary Education (OMB Cat. No. 13-471)	Harold Arberg 202-245-8912	National Direct Student Loan Program (OMB Cat. No. 13-471)
December	Higher Education Act of 1965, Title IV-C, as amended	Henry Drennan <u>or</u> Paul Janaske 202-245-2798	College work-study (OMB Cat. No. 13-461)
December	Higher Education Act of 1965, Title I-A	Henry Drennan <u>or</u> Paul Janaske 202-245-2798	Student special programs (OMB Cat. No. 13-468)
		Dr. Caroline Gillin 202-245-8272	
	Higher Education Act of 1965, Title IV-A, as amended		Talent search (OMB Cat. No. 13-468)
	Higher Education Act of 1965, Title IV-A, as amended		Upward bound (OMB Cat. No. 13-492)



Type of Assistance	Authorizing Legislation
14. Projects in environmental education (OMB Cat. No. 13.522)	Environmental Education Act of 1970 (P.L. 91-516)
15. Alcohol and drug abuse education programs (OMB Cat. No. 13.420)	Alcohol and Drug Abuse Education 93-422)
<u>Part C: For Postsecondary Education Programs</u>	
16. National Direct Student Loan Program (MOB Cat. No. 13.471)	Higher Education Act of 1965, Title IV-C, as amended
17. College work-study (MOB Cat. No. 13.463)	Higher Education Act of 1965, Title IV-C, as amended
18. Student special services	Higher Education Amendments of 1968, Title I-A
19. Talent Search (MOB Cat. No. 13.488)	Higher Education Act of 1965, Title IV-A, as amended
20. Upward Bound (MOB Cat. No. 13.492)	Higher Education Act of 1965, Title IV-A as amended

Purpose	Appropriation
To develop environmental and ecological awareness and problem-solving skills through education programs conducted by formal and non-formal educational organizations and institutions.	1,900,000
To organize and train alcohol and drug education leadership teams at State and local levels, to provide technical assistance to these teams, to develop programs and leadership to combat causes of alcohol and drug abuse.	2 Million
To assist in setting up funds at institutions of higher education for the purpose of making low-interest loans to graduate and undergraduate students attending at least half-time.	329,440,000
To stimulate and promote the part-time employment of post-secondary students of great financial need	300,200,000
To assist low-income and handicapped students to complete postsecondary education	23,000,000
To assist in identifying and encouraging promising students to complete high school and pursue postsecondary education	6,000,000
To generate skills and motivation for young people with low-income backgrounds and inadequate high school preparation	36,331,000

Who May Apply	Where to Apply
14. Colleges and universities, postsecondary schools, local and State Educational agencies and other public and private nonprofit agencies, institutions and organizations.	OE Grant Application Control Center
15. Institutions of higher education, State and local educational agencies, public and private education or community agencies, institutions and organizations.	OE Division of Drug Education, Nutrition and Health Programs
16. Colleges and universities	OE Division of Student Support and special Programs
17. Colleges and universities, vocational, and proprietary schools.	OE Division of Student Support and Special Programs
18. Accredited institutions of higher learning or consortiums.	HEW Regional Offices
19. Institutions of higher education and combinations of such institutions, public and private nonprofit agencies, an public and private organizations.	HEW Regional Offices
20. Accredited institutions of higher education and secondary or postsecondary schools capable of providing residential facilities	HEW Regional Offices

When to  
Apply

Key  
Personnel

December

Walter Bogan  
202-245-9231

Myles Doherty  
202-245-8156

Dr. Jim Spillane  
202-245-7292

Jim Allen  
202-245-2475

Richard Lowe  
202-245-2247

Ernest Becker  
202-245-1835

Thomas Fagan  
202-245-8488

Thomas Fagan  
202-245-8488



Type of Assistance	Authorizing Legislation
<u>Part D: For the Education of the Handicapped</u>	
21. Early education for handicapped children (OMB Cat. No. 13.444)	Education of the Handicapped Act, Title VI-C (P.L. 91-230)
22. Programs for children with specific learning disabilities (OMB Cat. No. 13.520)	Education for the Handicapped Act, Title VI-G
<u>Part E: For Occupational, Adult, Vocational and Career Education</u>	
23. Adult Education (OMB Cat. No. 13.400)	Adult Education Act of 1966, as amended
24. Vocational education programs (OMB Cat. No. 13.493)	Vocational Education Act of 1963, Part B, as amended
25. Consumer and homemaking education (OMB Cat. No. 13.494)	Vocational Education Act of 1963, Part F, as amended
26. Work-study programs for vocational students (OMB Cat. No. 13.501)	Vocational Education Act of 1963, Part H, as amended
27. Vocational programs for persons with special needs (OMB Cat. No. 13.499)	Vocational Education Act of 1963, Section 102 (b), as amended
28. Bilingual vocational training (OMB Cat. No. 13.588)	Vocational Education Act of 1963, Part J, as amended

Purpose	Appropriation
To develop model preschool and early education programs for handicapped children.	14,000,000
To provide for research, training of personnel and establishment of model centers for the improvement of education of children with learning disabilities	3,250,000
To provide adult basic education programs, through 12th grade competency	67,500,000
To maintain, extend and improve vocational education programs, to develop programs in new occupations	428,139,455
To assist States in conducting training programs in consumer and homemaking education, especially in economically depressed or high unemployment areas	35,994,000
To provide work opportunities for full-time disadvantaged vocational education students	9,849,000
To provide education programs for persons with academic, socio-economic or social handicaps which prevents them from succeeding in the regular program.	20,000,000
To assist in conducting bilingual vocational training programs to insure that vocational training programs are available to all individuals who desire and need such training.	2,800,000

Who May Apply	Where to Apply
21. Public agencies and private nonprofit agencies	OE Bureau of Education for the Handicapped
22. Institutions of higher education, State and local education agencies, and other public and private nonprofit agencies	OE Bureau of Education for the Handicapped
23. State education agencies	OE Division of Adult education
24. Local education agencies	State vocational education agencies
25. Local education agencies	State vocational education agencies
26. Local education agencies	State vocational educational agencies
27. Local education agencies	State vocational educational agencies
28. State agencies, local education agencies, postsecondary educational institutions, and other nonprofit organizations	OE Bureau of Occupational and Adult Education

When to Apply	Key Personnel
January	Joyce Broome 202-245-9815
Varies from state to state	Joyce Broome 202-245-9815
Varies from state to state	Bayard Clark 202-245-9751
Varies from state to state	Barbara Kemp 202-245-3478
Varies from state to state	Barbara Kemp 202-245-3478
Varies from state to state	Barbara Kemp 202-245-3478
Varies from state to state	Barabara Kemp 202-245-3478
Varies from state to state	Barbara Kemp 202-245-3478



Type of Assistance	Authorizing Legislation
29. Career education (OMB Cat. No. 13.554)	Education Amendments of 1974, Special Projects Act
<u>Part F: New Programs established by Special Projects Act</u>	
30. Gifted and talented children (OMB Cat. No. No. 13.562)	Education Amendments of 1974 Special Projects Act, Sec. 404
31. Community Schools (OMB Cat. No. 13.563)	Education Amendments of 1974. Special Projects Act, Sec. 405 (P.L. 93-380)
32 Consumers' education (OMB Cat. No. 13.564)	Education Amendments of 1974, Special Projects Act., Sec 407

Purpose	Appropriation	
To demonstrate the most effective methods and techniques in career education and to develop exemplary career education models.	10,000,000	29. State and local education agencies, institutions of higher education, and other nonprofit organizations and agencies.
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Education Amendments of 1974 (P.L. 93-380)		
To develop programs to meet special educational needs of gifted and talented children; to train leadership personnel to meet those needs.	3.5 Million	30. State and local educational agencies, institutions of higher education, approved private nonprofit institutions or agencies.
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To assist State and local educational agencies in establishing community schools; to train personnel to plan and operate community education programs.		31. State and local educational agencies, institutions of higher education.
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To support research and development and pilot projects designed to provide consumer education to the public.		32. State and local educational agencies, institutions of higher education, public libraries, education, public libraries, public or private nonprofit organizations or agencies.



Who May Apply	Where to Apply
29. State and local education agencies, institutions of higher education, and other nonprofit organizations and agencies.	OE Office of Career Education
30. State and local educational agencies, institutions of higher education, appropriate nonprofit institutions or agencies.	OE Bureau of Education for the Handicapped
31. State and local educational agencies, institutions of higher education.	OE Community Education Program
32. State and local educational agencies, institutions of higher education, public libraries, public libraries, public or private nonprofit organizations or agencies.	OE Bureau of Occupational and Adult Education

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*Willie Carlyle*

*Theodore George*  
Chairman



# NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PENNSYLVANIA BUILDING, SUITE 326

425 13th STREET, N.W.

WASHINGTON, D.C. 20004

December 18, 1975

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KARMA TORKLEP  
Ramah, New Mexico — Lumbee

## STAFF:

LINCOLN C. WHITE  
Executive Director

DORRANCE D. STEELE  
Asst. Executive Director

## Officials of Governing Bodies of Federally Recognized Indian Groups:

Our National Advisory Council on Indian Education is charged under Public Law 92-318 - The Indian Education Act of 1972, Title IV to address the issue of definition of "Indian." Section 453 of the Act states the existing definition as follows:

"Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

We are soliciting your assistance in this matter by requesting that you submit written criteria or your tribe's definition of "Indian" so that NACIE can seek to establish one that is appropriate for the purposes of the Indian Education Act of 1972.

At present the Act is being implemented on the basis of the above cited statutory definition.

Our Council (NACIE) recognizes the sovereign authority of tribes to establish their tribal membership. In no way shall we try to impair or reduce that right.

We will appreciate your immediate response to this very important request. Please send us your definition no later than January 12, 1976 so we can review these at our full NACIE Sessions to be held in Reno, Nevada, January 15-18, 1976.

Thank you for your cooperation.

Sincerely,

*Theodore George*  
Theodore George  
Chairman

# AK-CHIN INDIAN COMMUNITY

Route 1, Box 12 — Maricopa, Arizona 85239 — Phone 568-2379, 568-2362

1/7/74



January 5, 1975

Mr. Theodore George, Chairman  
National Advisory Council on Education  
Penn. Building, Suite 326  
425 13th Str., N.W.  
Washington, D. C. 20004

Dear Chairman George:

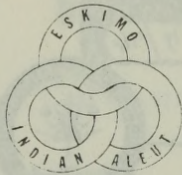
It is very difficult to define "Indian" such as requested in relation to the Indian Education Act. You must realize that all recognized Tribes have some sort of guidelines or Articles in their respective Constitution that are used in relation to clarification.

In our case, in short, as far as our Articles of Association is concerned under Article III, any enrolled member who must be at least 1/4 degree of Indian blood (even though Ak-Chin people are classed as a Papago group) regardless of tribe will automatically be an Indian.

However, the Ak-Chin Indian Community Council has no objections as to the present Sec. 453, if this said Sec. is doing the purpose of its original intend we see no reason otherwise.

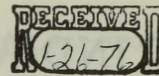
Very sincerely,

*Wilbert J. Carlyle*  
Wilbert J. Carlyle, Chairman  
Ak-Chin Indian Community Council



# ALASKA FEDERATION OF NATIVES, INC.

670 WEST FIREWEED LANE  
ANCHORAGE, ALASKA 99503  
PHONE (907) 274-3611



*Integrity, Pride in Heritage, Progress*

EXECUTIVE OFFICES

January 23, 1976

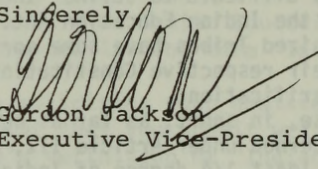
Mr. Theodore George, Chairman  
National Advisory Council on  
Indian Education  
425 13th Street, N.W.  
Pennsylvania Building, Suite 326  
Washington, DC 20004

Dear Ted:

I received a copy of your correspondence concerning the definition of "Indian Tribe." For your use, I am sending you a copy of research completed by the Alaska Native Foundation, concerning the definition of Indian Tribe contained in PL 93-638, the Indian Self-Determination and Education Assistance Act.

My best wishes.

Sincerely

  
Gordon Jackson  
Executive Vice-President

GJ:av

Enclosure





## CHEROKEE NATION

P.O. Box 119 • Tahlequah, Okla. 74464 • (918) 456-8887

December 23, 1975

12/29/75

Ross O. Swimmer  
Principal Chief

R. Vance McSpadden  
Business Director

Frank McLemore  
Program Director

Mr. Theodore George, Chairman  
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, NW  
Washington, D. C. 20004

Dear Mr. George:

In reference to your letter of December 18, 1975, we should like to forward this information to you. Because of legal technicalities the definition of a Cherokee Indian of Oklahoma is one who is on the Dawes Commission Rolls of 1907 or a descendant thereof. Of course, for other purposes the definition of an Indian should be much less restrictive to include those who for legal reasons are not necessarily "members" of a Tribe, but are, in fact, Native Americans.

Very truly yours,

*Ross O. Swimmer*  
Ross O. Swimmer  
Principal Chief

*by/NR*

ROS/mr



TRIBAL MANAGER

Thurman Welbourne, M.S.W.

CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA

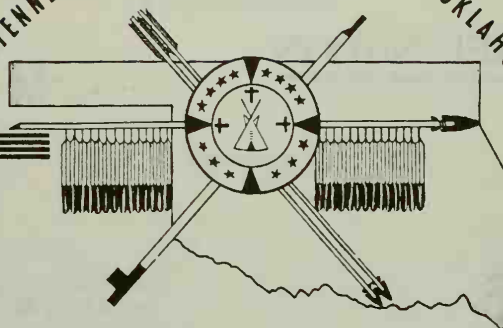
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CHEYENNE COUNCILMEN

Ralph Beard  
P.O. Box 972  
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Howard Goodbear  
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Watonga, Okla. 73772

Alfrich Heap of Birds  
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Rutherford Loneman  
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Oklahoma City, Okla. 73125

Arthur Sutton  
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Canton, Okla. 73724

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Watonga, Okla. 73772

Clarence Tallbull  
Box 10561  
Midwest City, Okla. 73110

Clinton Youngbear  
Box 664  
Watonga, Okla. 73772

January 27, 1976

Theodore George, Chairman  
National Advisory Council on Indian Education  
Pennsylvania, Suite 326  
425 13th Street N.W.  
Washington, D.C. 20004

Dear Sir:

The Cheyenne-Arapaho Tribes have a resolution outlining their position in this issue of defining an "Indian".

Hoping this will provide some help.

Sincerely,

*Jasper H. Washa*  
Jasper H. Washa,  
Researcher  
Tribal Administration  
and Management

JHW/pp  
enclosures

TRIBAL MANAGER

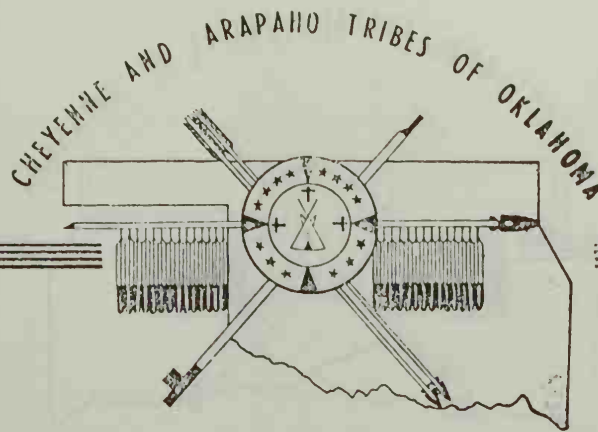
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September 8, 1975

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Watonga, Okla. 73772

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Box 10561  
Midwest City, Okla. 73110

Clinton Youngbear  
Box 664  
Watonga, Okla. 73772

TO: Mr. Charles James, Area Director  
FROM: Howard Goodbear, Chairman Cheyenne-Arapaho Tribes

RE: Indian Preference-Proposed  
Policy Change

INDIAN PREFERENCE

Cheyenne-Arapaho Position Statement:

B.I.A. Policy change concerning recent a court decision upholding "Indian Preference" in hiring and promotion practices.

Our recommendations are as follows:

"An Indian", has preference in initial appointment, including lateral transfer from outside the agency, reinstatement and promotion. To be eligible for preference, an Indian must meet the applicable standards as follows:

1. A member of a federally recognized tribe or band within the jurisdiction of the U.S. or,
2. Be able to establish by decendency rights, no earlier than (2) two generations from birth, his degree of blood and, or
3. Be able to show proof of degree of Indian blood of  $\frac{1}{2}$  or more of a federally recognized Tribal Group or band.

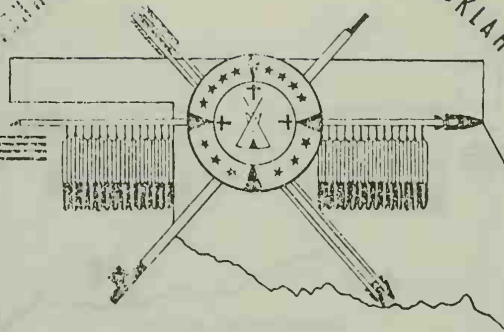
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Burlingame 111  
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Felix S. 111  
Box 272 111  
Oklahoma City, Okla. 73125  
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Box 261  
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George Sutton  
Box 1  
Wamego, Okla. 73772  
George Taffell  
Box 100 111  
Midway, Okla. 73110  
Clinton Young 111  
Box 601  
Wamego, Okla. 73772

According to, 25 U.S.C. § 472 which provides in part "The Secretary of the Interior is directed to establish standards... in the administration of functions or services affecting any Indian tribe. These standards should be directed toward selection of individuals who are members of a tribe or band possessing knowledge of his tribal history and culture. Any policy change must reflect the current trend of the tribal groups efforts to achieve self-determination in self-government.

HOW THE DETERMINATION IS TO BE MADE.

Individuals claiming Indian "preference" be required to produce substantive evidence of either; (a) their membership by enrollment of a tribal group, and/or, (b)  $\frac{1}{2}$  degree or more of Indian blood of a tribal group or band.

According to the solicitor's research an expansion to include other federally recognized non-I.R.A. tribes is desirable provided the requirements outlined above are met. non-I.R.A. tribes have the capacity to determine their membership and rely upon agreements, executive orders, and treaties as a legal basis for self-government.

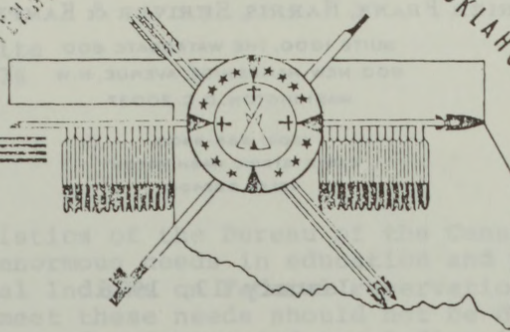
Our definition of an Indian is in an ethnological sense. However, legally the biological question of race is generally pertinent, but not conclusive. Legal status depends not only upon biological, but also upon social factors, such as the relationship of the individual to the community.

The accompanying resolution reflects the Business Committees thinking and supports the previous Committees similar resolution (18th Bus. Comm., 24th Session, C-A proposal 238, CR 102 R 18, 7th April 1973).

# TRIBAL MANAGER

Indian Affairs, U.S.D.

## CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA



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George Sutton  
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Watson, Okla. 73772

Clarence Tallull  
Box 10561  
Midwest City, Okla. 73110

Clinton Youngblood  
Box 66-1  
Watonga, Okla. 73772

It is hoped that this expression of our attitude will assist you.

Respectfully,

*Howard Goodbear*  
Howard Goodbear, Chairman  
19th Business Committee  
Cheyenne-Arapaho Tribes of Oklahoma



1/14/76

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S. BOBO DEAN  
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JILL WINE VOLNER  
HOWARD M. WEINMAN  
W. RICHARD WEST, JR.  
KAREN HASTIE WILLIAMS

FREDERICK SASS, JR.  
COUNSEL

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WASHINGTON, D.C. 20037

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SHRIVER & JACOBSON

120 BROADWAY  
NEW YORK, N.Y. 10005  
(212) 964-6600  
TELEX 620223

1 THROGMORTON AVENUE  
LONDON, EC2N 2JT, ENGLAND  
(01) 628-7814  
TELEX: 687608

January 13, 1976

OUR REFERENCE

Mr. Lincoln White  
Executive Director  
National Advisory Council  
on Indian Education  
Suite 326  
Penn Building  
423 13th Street, N.W.  
Washington, D.C. 20004

Re: Cheyenne River Sioux Tribe

Dear Mr. White:

The purpose of this letter is to confirm our telephone conversation yesterday in which I expressed to you the views of the Cheyenne River Sioux Tribe on the proposal to issue regulations enlarging the definition of "Indian" under the Indian Education Act, Title IV, of Public Law 92-318.

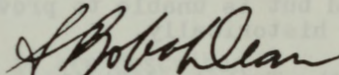
In our client's view the statutory definition is already too broad in that it includes many persons who are not members of Indian tribes recognized by the United States. No additional class of persons should be added by regulations to the group already eligible for assistance under the Indian Education Act.

Mr. Lincoln White  
January 13, 1976  
Page 2.

Published statistics of the Bureau of the Census amply indicate the enormous needs in education and other fields of tribal Indians on Federal reservations. Federal assistance to meet these needs should not be diverted to relieve the burden for States and non-Indian local governments who should be adequately providing for persons of Indian descent in their communities.

The Cheyenne River Sioux Tribe urges that the Council add no one else to the group already eligible for assistance under the Act and seek an amendment of the statute to restrict eligibility to the members of Indian tribes recognized by the United States.

Sincerely,

  
S. Bobo Dean

cc: Mr. Wayne Ducheneaux

THE SAULT STE. MARIE TRIBE OF  
**CHIPPEWA INDIANS**

416 Ashmun Street  
SAULT STE. MARIE, MICHIGAN 49783

12/31/75

December 29, 1975

Theodore George, Chairman  
National Advisory Council on  
Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N. W.  
Washington, D. C. 20004

Dear Sir:

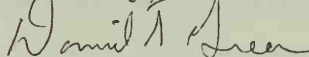
The only definition of the term "Indian" used by the Sault Ste. Marie Tribe of Chippewa Indians is the definition of membership in its Constitution. Basically, anyone possessing Indian blood in any quantum who can trace his ancestry to a historical roll of Sault Tribe Chippewa is entitled to Tribal membership. In addition, the Tribe may adopt as a member anyone who possesses Indian blood but is unable to prove association with the Sault Tribe historically.

Thus, the Tribe's definition of "Indian" appears to include anyone possessing Indian blood without regard to quantum. This is probably so because there is a history of intermarriage in Northern Michigan extending as far back as the seventeenth century, while the earliest complete roll dates from the twentieth century. The result is that accurate blood quantum is impossible to ascertain.

It would be the position of the Tribe that its members' eligibility should be based upon their membership in a recognized tribe per Sec. 453(1).

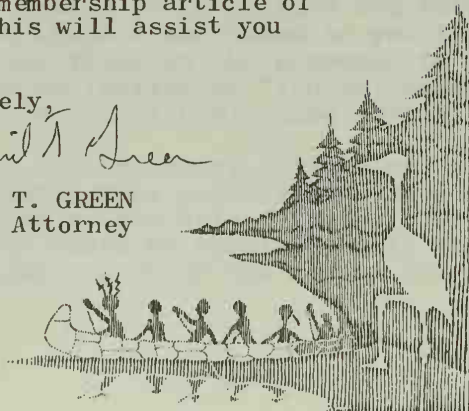
I am enclosing a copy of the membership article of the Tribal Constitution. I hope this will assist you in formulating your definition.

Sincerely,



DANIEL T. GREEN  
Tribal Attorney

DTG/krj  
Enclosure



### ARTICLE III - MEMBERSHIP

Section 1. The following persons shall be entitled to membership in the Sault Ste. Marie Tribe of Chippewa Indians, provided that such persons possess Indian blood and are not currently enrolled with any other tribe or band of North American Indians, and provided further that such persons are citizens of the United States of America:

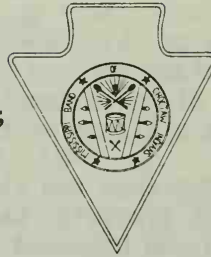
- (a) All persons descended from the six historical bands (Grand Island, Point Iroquois, Sault Ste. Marie, Garden River, Sugar Island and Drummond Island Bands) of the Sault Ste. Marie Chippewa Indians whose names appear on any historical roll, census or record made by officials of the Department of the Interior or Bureau of Indian Affairs.
- (b) All persons enrolled on the membership roll of the organization, known as the Original Bands of the Sault Ste. Marie Chippewa Indians who are alive on the date of approval of this constitution and who are descendants of the original bands.
- (c) All persons who may hereafter be adopted into the tribe in accordance with any ordinance enacted for that purpose by the board of directors;
- (d) All lineal descendant of such persons as are described in (a), (b) or (c) above.

Sec. 2. The board of directors shall have the power to enact ordinances consistent with this article to govern future membership, loss of membership and adoption.



1/19/76

MISSISSIPPI BAND OF CHOCTAW INDIANS



TRIBAL OFFICE BLDG.  
ROUTE 7, BOX 21  
PHILADELPHIA, MISS. 39350  
TELEPHONE (601) 656-5251

January 13, 1976

Mr. Theodore George, Chairman  
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
Washington, D. C. 20004

Dear Mr. George:

Thank you for your invitation to comment on the criteria outlined for the definition of Indian in Public Law 92-318. I certainly feel that it is very important to make it perfectly clear to all potential applicants as to whether they are eligible for Title IV program funding.

Although the Mississippi Band of Choctaw Indians has enacted no formal definition of the term "Indian", I believe that there is a generally accepted standard by which our people would probably make judgements about to whom to render education services, and I believe that this standard is embodied in the portions of the present definition which read "'Indian' means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who are descendents in the first or second degree, of any such member." We would, of course, wish to include Eskimos or Aleuts in the definition as long as they met the criterion stated above.

I do not think that either the Secretary of the Interior or the National Advisory Council on Indian Education should be given carte blanche to broaden or narrow such definition, nor should they attempt to do so without consultation and approval of Federally or State recognized Indian groups. Although I am very sympathetic to the

**"CHOCTAW SELF-DETERMINATION"**

Mr. Theodore George, Chairman

Page #2

January 13, 1976

plight of urban Indians, and most anxious about their welfare, I am also keenly aware of attempts by pseudo-Indian groups to pre-empt funds which could have been channelled more productively to the Choctaw people and other legitimate Indian groups through their Tribal governments, and would not sanction a definition which made it easier for these groups to do business with the Federal government.

Thank you again for your efforts to consult the Choctaw Tribe in this matter and may your January meeting be most productive.

Cordially,

*Calvin J. Isaac*

Calvin J. Isaac  
Tribal Chief

CJI:rs

RECEIVED  
1/2/76



December 30, 1975

Mr. Theodore George, Chairman  
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C. 20004

Dear Mr. George:

In reply to your letter of December 18th regarding our definition of an "Indian" as used on our Reservation, it is part of our Constitution and Bylaws, Article II, Membership, Section 1. as follows:

Section 1. The membership of the Colorado River Indian Tribes shall consist of:

a. All persons on an official membership roll as of the effective date of this constitution and bylaws, to be prepared by the tribal officials and approved by the Secretary of the Interior. Said roll shall contain the names of all persons living on the effective date of this constitution and bylaws: (1) whose names appear on the official Colorado River Agency Census Roll as of January 1, 1937, the January 1, 1938, and January 1, 1939, supplements thereto; (2) those individuals born on or before August 10, 1961, who are descendants of persons named on any of the documents referred to in Section 1 a. (1) above, regardless of whether those ancestors are living on the effective date of this constitution and bylaws; (3) those individuals of at least one-fourth ( $\frac{1}{4}$ ) degree Indian blood born after August 10, 1961, who are descendants of persons named on any of the documents referred to in Section 1 a. (1) above, regardless of whether these ancestors are living on the effective date of this constitution and bylaws; (4) those who were adopted as members of the tribes on or before August 10, 1961; and (5) those who were enrolled since August 10, 1961, pursuant to Article II of the tribal constitution as amended on that date. Names of persons enrolled as members of other tribes, bands or groups of Indians shall not be included on the roll. The roll may be corrected at any time by the tribal council, subject to the approval of the Secretary of the Interior.



"b. Every child of at least one-fourth ( $\frac{1}{4}$ ) degree Indian blood born after the effective date of this constitution and bylaws to an enrolled member of the Colorado River Indian Tribes."

For your information, there are four representative tribes on the Colorado River Indian Reservation, viz, Mohave, Chemehuevi, Hopi and Navajo, their enrollment subject to the above regulations.

Sincerely yours,

COLORADO RIVER INDIAN TRIBES

*Anthony Drennan Sr.*

Anthony Drennan, Sr.  
Chairman, Tribal Council



*Harold W. Mitchell, Jr.*  
Chairman, Tribal Council





THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION

DIXON, MONTANA 59831

December 23 1975

Harold W. Mitchell, Jr. Chairman  
E W. Morigeau, Vice Chairman  
F J. Houle, Jr., Secretary  
Ruby M. Christopher, Treasurer  
Homer Courville, Sergeant at Arms

TRIBAL COUNCIL MEMBERS

Patrick H. Lefthand  
Robert A. McCrea  
Joseph F. McDonald  
John E. Malatare  
Harold W. Mitchell, Jr.  
E W. Morigeau  
Thomas E. Pablo  
Victor L. Stinger  
Thomas (Bearhead) Swaney  
Fred Whitworth

Mr. Theodore George, Chairman  
National Advisory Council on  
Indian Education  
Pennsylvania Building, Suite 326  
425 - 13th Street, N. W.  
Washington, D. C. 20004

Dear Chairman George:

This is in response to your letter of December 18, 1975, in which you advised us of NACIE's responsibility under Public Law 92-318 - The Indian Education Act of 1972, Title IV to address the issue of definition of "Indian".

We realize that each tribe has the sovereign authority to establish its own membership and we have, since the Indian Reorganization Act gave us the authority, consistently urged the Bureau of Indian Affairs to stay with the definition of Indian that is found in (Title 25-USC 479). The basic tenet of that Act held that an Indian is "a member of any recognized tribe". This recognized that each Tribe has the sovereign authority to determine its membership.

Down through the years since then, Congress, the Bureau of Indian Affairs, and other Tribes have tried to place a blood criteria on who is an Indian. This is wrong because it is heart that makes an Indian, not blood.

We enclose three resolutions of the Flathead Tribal Council stating that tribal membership should be the criteria for federal services. We hope that NACIE is enough reservation oriented to respect our wishes that 25 USC 479 be left alone and used as the definition of an Indian. It was the definition that we accepted under IRA. It is the definition we accept today.

Sincerely yours,

Confederated Salish & Kootenai Tribes

*Harold W. Mitchell, Jr.*  
Harold W. Mitchell, Jr.  
Chairman, Tribal Council

enclosures (3)

cc: Karen Fenton  
HRD Program

RESOLUTION  
OF THE GOVERNING BODY OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION

No. 4827

RESOLUTION RECOMMENDING POLICY FOR INDIAN PREFERENCE IN EMPLOYMENT IN THE BUREAU OF INDIAN AFFAIRS.

WHEREAS, the present criteria of "one-fourth degree of Indian blood of a Federally-recognized tribe" which was established by Executive Order has been challenged through administrative appeal and as of April 17, 1975, by court action; and

WHEREAS, the Confederated Salish and Kootenai Tribes have in the past supported the elimination of the one-fourth degree of Indian blood criteria, as early as February 04, 1936, and again on June 28, 1968, as evidenced by Resolution Number 7 and 2509 attached hereto and made part hereof; now, therefore,

BE IT RESOLVED, by the Tribal Council of the Confederated Salish and Kootenai Tribes that the following policy for Indian preference in employment be adopted by the Bureau of Indian Affairs:

"An Indian has preference in initial appointment, including lateral transfer from outside the Bureau, reinstatement and promotion. To be eligible for preference, an individual must meet any one of the following:

- (a) a member of any recognized tribe now under Federal jurisdiction, or
- (b) a descendant of a member of a Federally-recognized tribe who was on June 1, 1934, residing within the boundaries of any Indian reservation under Federal jurisdiction (For purposes of definition, the residing of either the descendant or the antecedent members satisfies the requirements of this provision.), or
- (c) one-half or more Indian blood, or
- (d) an Eskimo or a person descended from the other aboriginal peoples of Alaska, or

- (e) a person one-fourth or more Indian blood who is a descendant of a member of the Five Civilized Tribes in Eastern Oklahoma and the Osage Tribe that have not organized under the Oklahoma Welfare Act, or
- (f) a person of one-fourth degree or more Indian blood of a Federally-recognized tribe who was eligible for "preference" under existing policy as of the effective date for this new policy."

CERTIFICATION

The foregoing resolution was adopted by the Tribal Council on the 15th day of August, 1975, with a vote of 7 for, 0 opposed, and 0 not voting pursuant to authority vested in it by Article VI, Section T (a), (c) and (u) of the Tribes Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

\_\_\_\_\_  
Chairman, Tribal Council

ATTEST:

\_\_\_\_\_  
Tribal Secretary

RESOLUTION  
OF THE GOVERNING BODY OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION  
An Indian Chartered Corporation

No. 2509

RESOLUTION REQUESTING RECONSIDERATION OF ONE-QUARTER DEGREE AS QUALIFICATION FOR FEDERAL PROGRAMS.

WHEREAS, the Constitution and By-laws of the Confederated Salish and Kootenai Tribes approved October 28, 1935, states that membership of the Confederated Tribes shall consist as follows:

(a) All persons of Indian blood whose names appear on the official census rolls of the Confederated Salish and Kootenai Tribes as of January 1, 1935.

(b) All children born to any member of the Confederated Salish and Kootenai Tribes who is a resident of the reservation at the time of birth of said children, and;

WHEREAS, under the said Constitution and By-laws, until amended on April 1, 1960, many persons were enrolled who do not possess one-quarter ( $\frac{1}{4}$ ) degree Indian blood, and;

WHEREAS, employment assistance, educational assistance, and other services provided by the Bureau of Indian Affairs require the recipient of services to be one-quarter ( $\frac{1}{4}$ ) Indian blood, and;

WHEREAS, enrolled Indians of less than one-quarter ( $\frac{1}{4}$ ) Indian blood are considered wards of the government and are in equal need and deserving of the services of the Bureau of Indian Affairs, now therefore;

BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES, that the Bureau of Indian Affairs is hereby requested to reconsider the discriminatory practice of requiring one-quarter ( $\frac{1}{4}$ ) degree Indian blood as a criteria for eligibility for services under federal programs.

C E R T I F I C A T E

The foregoing resolution was duly adopted by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation on JUN 28 1968, by a vote of 8 for, 0 opposed, and 0 not voting, pursuant to the authority vested in it by Article VI, Section 1, (c) and (u) of the Tribes Constitution and By-laws, approved by the Secretary of the Interior on October 28, 1934, approved as amended by the Tribes, adopted April 1, 1960, and approved by the Secretary of the Interior on May 5, 1960.

\_\_\_\_\_  
Chairman, Tribal Council

Attest:

\_\_\_\_\_  
Tribal Secretary



## RESOLUTION

RESOLVED, THAT WHEREAS the regulations provide that Indians who are qualified for clerical or other regular positions in the Service, must be 1/4 or more Indian blood before they can be given such appointments; and

WHEREAS, it is the opinion of this Tribal Council that Indian allottees of the Flathead jurisdiction should be given preference in employment on their own reservation no matter what their degree of blood;

IT IS RESOLVED, that this Tribal Council, meeting in special session this 4th day of February, 1936, petition the Commissioner of Indian Affairs and the Secretary of the Interior to take the necessary steps to have these regulations so modified as to permit consideration of qualified Indians for clerical or other regular positions in our Service with whatever degree of Indian blood, provided they were enrolled members of this tribe.

IT IS FURTHER RESOLVED, that this preference should be extended to these Indians only for appointment to positions connected with the Indian Service on their own reservation.

Edwin Duouis

Alexander L. Clairmont

Eneas M. Conko

William Gingras

Nicolai Lassaw

Louis J. Tellier

Louie Couture

Joseph R. Blodgett

Duncan McDonald, Jr.

Louie Adams, Sr. His mark

Eneas Paul Koostahtah His mark

Witnessess to both marks:

A.L. Clairmont  
William Gingras

RECEIVED  
1/5/76

# Fort Belknap Community Council

Fort Belknap Agency  
Harlem, Montana 59526



Fort Belknap Indian Community  
(A Federal Charter Corporation)

Fort Belknap Indian Community

(Elected to administer the affairs of the community  
and to represent the Assiniboiné and the Gros  
Ventre Tribes of the Fort Belknap Indian  
Reservation)

December 22, 75  
DATE

Lincoln C. White  
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C. 20004

Mr. White:

We have received a letter dated December 18, 1975 from Theodore George requesting our definition of an Indian. First of all, our definition (see attachment) relates only to membership. However, if you will recall, for education purposes or welfare an Indian must be considered an Indian if he comes under three of the six categories prescribed by the Bureau of Indian Affairs.

We, at Fort Belknap, define an Indian as any person one-fourth or more degree Indian blood. If we can be of further assistance please call or write us.

Sincerely yours,

John W. Allen - Chairman  
Fort Belknap Community Council

EXISTING  
ARTICLE III - MEMBERSHIP

Section 1. Membership of Allottees. Every living person whose name appears on the allotment roll of the Fort Belknap Reservation shall be entitled to membership in the Fort Belknap Community, and shall not be deprived of such membership without his consent.

Section 2. Membership Of Descendants. (a) Every child of one-fourth or more Indian blood born heretofore or hereafter to any member of the Community who maintains a residence upon the Fort Belknap Reservation at the time of such birth shall automatically be entitled to membership.

(b) Children born heretofore or hereafter to any member of the Fort Belknap Indian Community, regardless of residence, shall be subject to adoption in accordance with section 3 of this article, upon application by self, parent or guardian. Provided that such person has not received membership in any other tribe of Indians.

Section 3. Adoption. The Community may, by a majority of the votes cast by the members of the Community, adopt as a member of the Community any person of one-eighth or more Indian blood who is a descendant of a member of the Fort Belknap Tribes or Community, provided that any person adopted into membership must have resided at least three years upon the Fort Belknap Reservation.

Section 4. Loss Of Membership. In no case shall a member lose his membership other than by personal request in writing to the Community Council.

---



## KAW TRIBE OF OKLAHOMA

### Kaw Tribal Business Committee

P. O. Box 710 - 515 S. Pine - Ponca City, Oklahoma 74601  
Phone (405) 762-6759

Chairman - Jesse Mehojah, Jr.  
Vice Chairman - Elmer Clark  
Secretary & Treasurer - Joe Mehojah, Jr.

Councilman - Alford Pepper  
Councilman - Huston Taylor  
Councilman - Roy Lee Ball

RECEIVED  
12/29/75

December 23, 1975

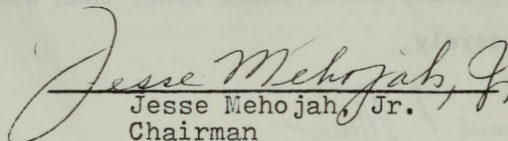
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N. W.  
Washington, D.C.

Dear Sirs:

Thank you for your letter of December 18, 1975. We are now attempting to up our blood quatom in our Tribal guidelines.

Our Business Committee believes that an Indian msut be an individual who possesses one-fourth ( $\frac{1}{4}$ ) or more degree of Indian blood of a federal recognized tribe. Thanks again.

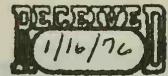
Sincerely,

  
Jesse Mehojah, Jr.  
Chairman

JM/jo



HUGH ED JOHNSON  
VICE-CHIEF



EDWARD F. MOUSS  
EXECUTIVE DIRECTOR

OFFICE Of The PRINCIPAL CHIEF

CLAUDE A. COX

PHONE 918/756-8891

P. O. BOX 1114

OKMULGEE, OKLAHOMA 74447

January 13, 1976

Theodore George, Chairman  
National Advisory Council on Indian Education  
425 13th Street, N.W.  
Pennsylvania Building, Suite 326  
Washington, D.C. 20004

SUBJECT: Public Law 92-318, Title IV, Section 453

Dear Mr. George:

In regard to your letter of 12-18-75, we propose that Section 453 of the Indian Education Act be made to define "Indian" as the following: "Indian" means any individual who is an enrolled member or a descendant of an enrolled member of 1/4 degree Indian blood of a federally recognized Tribe, band, or other federally recognized group of Indians, as recognized by the U.S. Government as being eligible for Federal services". We feel that this definition goes a long way toward alleviating a definition of "Indian", in our particular situation, and it will also alleviate the problems of misdirecting those services toward persons who claim Indian descendancy and as such have no particular involvement other than some distant descendant.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward F. Mouss".

Edward F. Mouss  
Executive Director  
Creek Nation

EFM/jw

cc: Office of Human Resource Development, Dept. of Education

12/29/75

# Citizen Band Potawatomi Indians of Oklahoma

ROUTE 5 — Box 151 — 405-275-3125

SHAWNEE, OKLAHOMA 74801

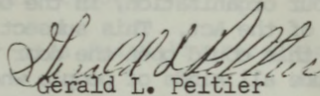
December 23, 1975

Theodore George, Chairman  
National Advisory Council  
on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C. 20004

Dear Sir:

Reference Public Law 92-318 - the Indian Education Act of 1972, Title IV. The Citizen Band Potawatomi Indians of Oklahoma have addressed themselves to the issue of definition of an "Indian" many times in the past and are in full concurrence with the definition spelled out in Section 453 of the Act.

Sincerely,



Gerald L. Peltier  
Chairman-Tribal Administrator

GLP/jj

PUEBLO OF LAGUNA

P.O. BOX 194

LAGUNA, NEW MEXICO 87026

Office of:

The Governor  
The Secretary  
The Treasurer

(505) 243-3716

(505) 243-3717

(505) 243-3718

December 31, 1975

Mr. Theodore George  
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D. C. 20004

Dear Mr. George:


Thank you for your letter of December 18, 1975, concerning the definition of the term "Indian" for the purpose of Section 453 of the Indian Education Act of 1972, Title IV.

The Pueblo of Laguna has always recognized as Indians those persons who are legally considered as Indians by the laws of the United States. Of course, we maintain our own membership roll, which has membership standards based on blood quantum and other factors more restrictive than Federal law. However, we assert jurisdiction over all Indians who are on our reservation, whether or not they are members and, for such purposes, the Federal standards apply.

Subsections (1), (2) and (3) of Section 453 fit the general definitions of Federal law. Subsection (4) grants considerable discretion, after consultation with your organization, in the determination of who is an Indian for purposes of the Act. This subsection (4) bothers us, as we at Laguna feel that this could open the door to a definition of "Indian" which would include all kinds of people who claim Indian ancestry.

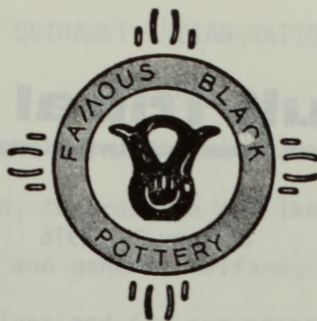
The present Federal definition is: at least 1/4 Indian blood and/or membership in a recognized Tribe. We are of the opinion that this definition should remain as the definition of "Indian" under Section 453 and not be expanded to include people who would only be Indians by marginal blood quantum and who have no real Tribal affiliation.

Very truly yours,

  
ROLAND E. JOHNSON  
Governor



**PUEBLO DE**



**SANTA CLARA**

POST OFFICE BOX 580

ESPANOLA, NEW MEXICO 87532

December 19, 1975

Mr. Theodore George  
National Advisory Council in Indian Education  
Pennsylvania Building, Suite 326  
425-13th Street, N.W.  
Washington, D.C. 20004

Dear Mr. George:

Reference your letter of December 18, 1975 relating to P.L. 92-318.  
The Indian Education Act of 1972, Title IV, Section 453.

Please be advised the Santa Clara Pueblo's definition of an Indian is  
based on the following:

1. Must be a member with 1/4 or more degree of Indian blood,  
and recognized by his tribe.
2. An enrolled member of a federally recognized Indian tribe.
3. Must reside on an Indian reservation.

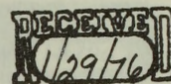
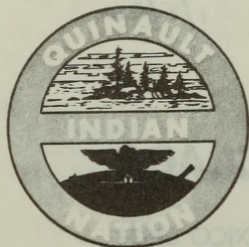
The above stipulated information is for preference reasonable and rationally designed to further Indian self-government, and because of the importance in carrying on of our culture and training in socio-regligious aspect of our people thereby preventing a cultural breakdown.

Sincerely,

Lucario Padilla  
Governor

LP/pb





# Quinault Tribal Council

POST OFFICE BOX 1118 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (206) 276-4446

January 26, 1976

Mr. Ted George  
National Advisory Council on Indian Education  
Pennsylvania Bldg., Suite #326  
425 13th Street N.W.  
Washington, D.C. 20004

Dear Mr. George:

Enclosed please find a copy of the Constitution of the Quinault Indian Nation. Article II contains the current definition of Quinault Indian as adopted by the Quinault Indian Nation. Also enclosed are a copy of the 1965 By-Laws, which contain a now abandoned definition of Quinault Indian.

The Quinault Indian Nation has always taken the position that the sole judge of the membership of a tribe is the tribe itself.

Very truly yours,

Pearl Baller, Secretary  
Quinault Business Committee

PB: cb  
enc.

CONSTITUTION OF THE  
QUINULT INDIAN NATION

PREAMBLE

We, the Indians of the Quinault Indian Nation, in order to establish a better tribal organization; to preserve our land base, culture and identity; to safeguard our interest and general welfare; to secure the blessings of freedom and liberty for ourselves and for our posterity; and to amend our By Laws of August 22, 1922, as amended, do hereby approve and adopt this Constitution.

ARTICLE I - SOVEREIGNTY

SECTION 1 - SOVEREIGNTY: Notwithstanding the issuance of any patent, the jurisdiction and governmental power of the Quinault Nation shall extend to:

(a) all lands, resources, and waters reserved to the Quinault Nation pursuant to the Treaty of Olympia, 12 Stat. 971, established by Executive Order dated November 4, 1873 (16 Stat. 923) and to all persons acting within the boundaries of those reserved lands or waters; (b) all usual and accustomed fishing grounds, open and unclaimed lands reserved for hunting and gatherings and other lands necessary for the appropriate use of fishing and hunting grounds; and all members exercising tribal hunting, gathering and fishing rights on or off the Quinault Reservation in Quinaults usual and accustomed fishing grounds or:

(c) all lands or waters held by the United States in trust or reserved by the Quinault Nation for the use and benefit of any member of the Quinault Tribe when such lands or waters are not within the boundaries of an established Indian Reservation; (d) all members of the Quinault Nation while such members are within the boundaries of the United States of America or any of its Reservations, states, territories, possessions, zones, or districts; except where

such jurisdiction is expressly limited by the laws of the United States;  
(f) offshore marine waters for a distance concurrent with the jurisdiction  
of the United States.

SECTION 2 - GENERAL WELFARE: It shall be the goal of the Quinault Nation  
to provide for the general safety and welfare of all persons acting by the  
right of membership in the Quinault Nation or acting or residing within the  
jurisdiction of the Quinault Nation.

#### ARTICLE II - ENROLLMENT

SECTION 1 - MEMBER: (a) Any person of 1/4 Quinault, Queets, Quileute,  
Hoh, Chinook, Chehalis, or Cowlitz blood of one of the named Tribes or com-  
bined, not a member of any other federally recognized Indian tribe. (b) any  
person adopted into the Nation by a majority vote of the General Council,  
at a regular annual meeting of that council. The ownership of trust land on  
the Quinault Reservation shall be an important consideration in recommending  
adoption, but such ownership shall not be considered a necessary or suffi-  
cient qualification or condition for a recommendation of adoption.

SECTION 2 - ENROLLMENT COMMITTEE: (a) Membership. The enrollment  
committee shall consist of not less than four (4), nor more than nine (9)  
members of the Quinault Nation, appointed by the Business Committee. (b)  
Duties. The enrollment committee shall: (1) accept applications for en-  
rollment and adoption, (2) investigate all applications for enrollment  
and adoption, (3) approve all applications for enrollment where applicants  
qualify for membership in the Quinault Nation under the provisions of this  
Constitution. A list of all persons approved for enrollment during the  
interim between annual General Council meetings shall be published and  
posted publicly in places determined to be appropriate to inform the general



membership of pending enrollment thirty (30) days prior to the next annual General Council meeting and presented by the enrollment committee to the General Council at the next annual General Council meeting, (4) recommend to the General Council for their vote, persons approved by the enrollment committee for adoption into the Quinault Nation; a list of such persons shall be posted with the pending enrollment list, (5) participate in the interviewing and hiring of an enrollment clerk, (6) issue an official notice of denial of enrollment to any person, who, after all due investigation by the enrollment committee is found not to be qualified for enrollment in the Quinault Nation, (7) issue an official notice of denial of recommendation to any person, who, after all due investigation by the enrollment committee is found not to be acceptable for a recommendation of adoption.

SECTION 3 - APPROVED APPLICANTS: All persons approved for enrollment by the enrollment committee shall be considered members for all purposes until their names are presented at an annual General Council meeting; provided, persons approved for enrollment shall not be permitted to vote on the enrollment or adoption of any person.

SECTION 4 - APPEALS: (a) Persons denied enrollment by a final act of the enrollment committee may appeal the decision of the enrollment committee to the General Council and if denied by the General Council may appeal to the Quinault Tribal Court. Persons denied enrollment may request a recommendation of adoption. (b) Persons denied a recommendation of adoption by a final act of the enrollment committee may request that the General Council adopt them at an annual meeting of the Council. The decision of the General Council shall be final



SECTION 5 - OBJECTIONS TO ENROLLMENT: Any member may object to the enrollment of any person approved for enrollment at the time the name of that person approved for enrollment is presented to the General Council by the enrollment committee. The name of the member objecting shall be recorded and that objecting member shall have ninety (90) days to present sufficient evidence to cause reexamination of the enrollment application to the enrollment committee. During that ninety (90) day period and during any disenrollment investigation, the person objected to shall exercise the rights of a member. If the ninety (90) days shall pass without sufficient evidence being presented to the enrollment committee to cause the enrollment committee to reinvestigate the application, the person objected to shall be enrolled.

SECTION 6 - DISENROLLMENT: (a) The enrollment committee shall not begin review of the enrollment of a member without first notifying a person subject to a disenrollment investigation that he or she is subject to such an investigation and allowing such person to view all evidence being used to question member status. (b) the enrollment committee in a disenrollment investigation shall follow all procedures set out herein for enrollment, including presentation of the names of any finally disenrolled person to the General Council at the next annual meeting of that Council. (c) exclusive grounds for disenrollment shall be that a person submitted fraudulent evidence in the application for enrollment in the Quinault Nation in order to qualify under the provisions of this Constitution, (d) adopted members shall not be subject to disenrollment proceedings, (e) persons finally disenrolled shall have the right to appeal their disenrollment to the Quinault Tribal Court.

### ARTICLE III - GENERAL COUNCIL

SECTION 1 - MEMBERSHIP IN THE GENERAL COUNCIL: All members, including adopted members of the Quinault Nation shall be members of the General Council.

SECTION 2 - VOTING: Members of the General Council age 18 years or more, who are present at the appointed time and place of elections shall be permitted to vote in General Council meetings.

SECTION 3 - MEETINGS: (a) The annual meeting of the General Council shall be held on the last Saturday in March at a place within the boundaries of the Quinault Reservation. (b) All meetings of the General Council shall be announced by the Business Committee by posting notices at Taholah, Queets, Amanda Park and any other place determined by the Business Committee at least ten (10) days in advance of the meeting and by publishing notice in a newspaper of general circulation in the vicinity of the Reservation. (c) Special meetings may be called by the Business Committee or by fifty (50) voting members by giving and posting the required notice. (d) The purpose of the General Council meetings shall be to elect or recall the members of the Business Committee and to declare the will of the General Council on issues placed before the General Council by the agenda and by persons raising issues at any meeting. (e) A quorum for conducting business at any meeting shall be fifty (50) voting members. (f) The agenda for the annual meeting shall be published by the Secretary of the Tribe. All items to be placed on the agenda shall be submitted to the Secretary thirty (30) days in advance of the annual meeting. Items on the agenda shall be considered before issues or questions raised from the floor. (g) In addition to the annual meeting, quarterly General Council meetings may be held.

SECTION 4 - BILL OF RESERVED POWERS: The following powers shall be reserved to the General Council and the Business Committee or other agency of the Nation shall be required to obtain the advice and consent of the General Council prior to taking any action with regard to these powers. Any action the Business Committee shall take with regard to these powers without obtaining the advice and consent of the General Council shall be void and have no legal effect. (a) The relinquishment of any National criminal or civil jurisdiction to any agency, public or private; provided that this section shall not prevent the Business Committee from commissioning non-National or non-Bureau of Indian Affairs peace officers to enforce National laws and regulations. (b) The termination of the Quinault Reservation. (c) The adoption of persons into the Nation. (d) The sale of hunting or fishing rights, grounds, or stations. (e) Any other act which jeopardizes any treaty right of the Quinault Nation; or is prohibited to the Business Committee by this Constitution, or by instruction of the General Council, without prior approval of the General Council.

#### ARTICLE IV - BUSINESS COMMITTEE

SECTION 1 - OFFICERS: The officers of the Nation shall consist of the President, the Vice-President, Secretary and Treasurer and seven (7) Councilmen. The said eleven (11) officers shall constitute the Business Committee of the Quinault Nation and all shall have the right to vote on issues brought before the Business Committee.

SECTION 2 - QUORUM: A quorum of the Business Committee shall consist of at least six (6) officers, including the President and Vice-President, and decisions shall be made by a majority vote of those present. In the

absence of the President and Vice-President, no meeting shall be held unless an officer has been duly appointed by the President or the Vice-President to chair the meeting.

SECTION 3 - ELECTION: The officers shall be elected at the annual meeting of the General Council and shall serve three year staggered terms. Nominations shall be made from the floor. Election shall be by secret ballot. No absentee ballots shall be allowed. Officers shall be elected one at a time. When during the course of any General Council meeting, any presently serving officer shall be elected to fill any other position on the Business Committee, the position vacated by the election shall be immediately filled by electing another qualified person to the remainder of the term of the vacated position.

SECTION 4 - QUALIFICATIONS: Any enrolled member who maintains permanent residence within the Reservation boundaries, is present at the election, and is entitled to vote in the General Council, shall be eligible to be elected as an officer of the Nation, provided that no more than one brother, sister, father, mother, husband, wife or child of any person already serving as an officer may be elected as an officer. Officers moving their residence outside the boundaries of the Reservation during their term of office will be considered to have resigned from the Business Committee.

SECTION 5 - REMOVAL: (a) Any officer who is absent from three consecutive regular Business Committee meetings without an excuse acceptable to the Business Committee or who commits acts in violation of his position of trust as an officer of the Quinault Nation shall be removed from office. (b) Prior to removal pursuant to (a) above, the officer whose removal is contemplated shall be given a reasonable opportunity to answer charges and



a written statement of the charges against him shall be made available to him fifteen (15) days prior to said meeting. (c) An officer who has been removed shall have the right within thirty (30) days to file an appeal to the General Council. In the event of such an appeal, the Business Committee shall promptly call a special meeting of the General Council, at which special meeting, it shall be decided whether the removed officer shall be permanently removed. Failure to obtain a quorum of the General Council at such a special meeting shall be considered affirmation of removal of any officer.

SECTION 6 - RECALL: Any officer may be removed for any reason by vote of the General Council on a recall petition, specifying the reasons for removal. A recall petition shall be signed by at least fifty (50) qualified voters, and filed with the Business Committee. Upon the filing of such a petition, the Business Committee shall promptly call a special meeting of the General Council. Written notice of the petition shall be given to the officer at least fifteen (15) days prior to the meeting, and he shall be entitled to state his case before the General Council. The decision of the General Council shall be final. Failure to obtain a quorum at such a General Council meeting shall require the dismissal of the recall petition and no new recall petition may be filed against the officer in question for a period of one year following said meeting.

SECTION 7 - VACANCIES: Vacancies on the Business Committee shall be filled no more than sixty (60) days following the occurrence of a vacancy by a 2/3 vote of a quorum of the remaining officers; provided that such appointee is a voting member of the Nation and is otherwise qualified. The vacancy shall be filled by election at the next General Council meeting

for the remainder of the existing term. No person not elected to the Business Committee by the General Council shall be appointed to the position of President or Vice-President.

SECTION 8 - MEETINGS: Regular open meetings of the Business Committee shall be held at least once in each month on a regular schedule set by the Business Committee. Special meetings may be called on a reasonable notice to all officers. Executive sessions of the Business Committee may be held on majority vote of the Committee. All regular meetings shall be held within the boundaries of the Quinault Reservation.

SECTION 9 - BY-LAWS: The Business Committee shall by ordinance adopt its own procedures and duties of officers, except as herein provided.

#### ARTICLE V - POWER AND RESPONSIBILITIES OF THE BUSINESS COMMITTEE

SECTION 1 - GENERAL: It shall be the duty of the Business Committee to govern all people, resources, lands, and waters under the jurisdiction of or reserved to the Quinault Nation in accordance with this Constitution, the Quinault Tribal Code of laws, the Quinault Treaty, the laws of the United States expressly limiting the powers of the Quinault Nation, and the instructions of the General Council. Any rights, powers and authority expressed, implied, or inherent vested in the Nation but not expressly referred to in this Constitution shall not be abridged by this Article, but shall be exercised by the Business Committee or the General Council by the adoption of appropriate ordinances and agreements.

SECTION 2 - LAWS: The Business Committee shall have the power to enact laws for the welfare of the Nation; provided, however, that such laws are not in conflict with this Constitution, and that public hearings

be held on each such law prior to their adoption.

SECTION 3 - POWERS: The Business Committee shall have the power:

(a) To enter into agreements on behalf of the Nation with federal, state, and local governments or agencies, and other public and/or private organizations or persons; provided, that these agreements are not in conflict with this Constitution, the instructions of the General Council, or the laws of the Quinault Nation. (b) To provide for the execution and enforcement of the laws of the Quinault Nation; and to establish an independent Tribal Court, and to provide by law for its jurisdiction, procedures, and appointment or election of its judges; and to charter and regulate associations, corporations for profit and not for profit, towns, special districts, schools, religious institutions, financial institutions and all other entities; and to establish National enterprises as branches of the National government. (c) To levy and collect taxes on members and other persons or entities within the National jurisdiction; provided that no tax shall be levied on trust real property; further provided that no tax shall be levied without holding public hearings convenient in time and place to all members of the Quinault Nation and those subject to its jurisdiction; to determine the need for, and effect of, such a tax. (d) To assert the defense of sovereign immunity in suits brought against the Nation and to waive the said defense by agreement where National realty or personalty not held in trust by the United States is pledged or when property held in trust by the United States is pledged with the consent of the United States. (e) To govern the sale, disposition, and lease of tribally owned assets, and to provide for the zoning and other land use regulation of all lands within the boundaries of the Reservation and the

jurisdiction of the Quinault Nation; and for the purity, volume, and use of all water to which the Quinault Nation and the Quinault people are entitled; and for the purity of the air within the Quinault Reservation.

(f) To manage, lease, permit, sell, or otherwise deal with tribally owned lands, tribally owned interests in lands, water rights, fishing stations, mineral rights, hunting grounds, fish and wildlife resources; or other tribally owned assets, and to purchase or otherwise acquire lands or interests in lands within or without the Reservation, and to hold those lands in tribal or federal trust and to regulate allotted trust and non-trust lands within the Reservation boundaries insofar as such regulation is not prohibited by federal law and does not violate the rights of owners; provided, that tribally owned lands held in trust by the United States shall not be sold or encumbered unless authorized by the General Council. The authority to manage National lands and timber may be delegated to a special committee or committees. (g) To engage in any business that will further the economic well being of the Nation and of the members of the Nation, or undertake any program or projects designed for the economic advancement of the people or the Nation; and to regulate the conduct of all business activities within Reservation boundaries. (h) To borrow money from the federal government or other sources, to direct the use of such funds of productive purposes, and to pledge or assign chattels or income due or to become due. (i) 1--To administer any funds within the control of the Nation in accordance with an approved National budget; to make expenditures from available funds for tribal purposes including salaries and expenses of tribal employees or officials, 2--The Business Committee shall prepare an annual Nation budget, 3--This budget shall include all normal operating expenses,



any special projects or expenditures contemplated by the Nation, 4--All expenditures of tribal funds by the Business Committee shall be authorized by it or by the General Council in legal session and the amounts so expended shall be a matter of public record. 5--The Business Committee shall have authority to approve amendments to the Nation's annual budget for special appropriations in any budget year. 6-- The approved budget shall be posted at the National Business Office in Taholah, Queets, and the Post Office in Taholah. (j) To provide for an escheat in order that real and personal property of members who die intestate and without heirs shall revert to the Nation. (k) To manage, protect and preserve the wildlife and natural resources of the Nation and to regulate hunting, fishing, including shell-fishing, and trapping within the jurisdiction of the Nation. This power may be delegated to a special committee or committees. (l) On petition by fifty (50) voting members of the Nation or on its own motion, the Business Committee shall, within a reasonable time, hold a general membership election by secret ballot on any issue. (m) All officers and employees of the Nation who have possession of tribal funds shall account for same periodically to the Business Committee. All officers and employees handling National funds shall be bonded. There shall be an annual audit of all National funds handled by National officers or employees to be performed by the Bureau of Indian Affairs or Certified Public Accountants. (n) To condemn land or interest in lands for public purposes within the boundaries of the Reservation; provided that owners of the lands condemned shall be paid the fair market value of such lands and any timber or buildings thereon. (o) To exact all laws which shall be necessary and proper for carrying into execution any power delegated to the Business Committee or delegated to any

person or committee under the supervision of the Business Committee. (p)

To govern the inheritance of real and personal property owned by members.

#### ARTICLE VI - RATIFICATION

This Constitution shall go into effect when ratified by two thirds (2/3) of all members eligible to vote, present and voting at a General Council meeting at which a debate and vote on this Constitution has been placed on the agenda. All enrolled members of the Quinault Nation shall be notified of such a General Council meeting at least thirty (30) days prior to such a meeting, and the notice provided shall make specific reference to the proposed ratification of this Constitution. Election of officers provisions shall not take effect until the annual meeting of the General Council following the adoption of this Constitution.

#### ARTICLE VII - AMENDMENT

SECTION 1: This Constitution may be amended by a two thirds (2/3) vote of a quorum of the General Council at an annual or special meeting, provided, however, that the notice of the meeting at which an amendment is proposed shall be given at least thirty (30) days before the meeting, and shall set forth the proposed amendment and an explanation thereof; and provided further that after discussion of the amendment at the meeting there shall be a recess of at least 30 minutes to enable the members to further discuss the amendment among themselves.

SECTION 2: The Business Committee shall call a meeting to consider a proposed amendment upon its own motion, or upon receipt of a petition signed by fifty (50) voting members or upon resolution of the General Council.

#### ARTICLE VIII - ENFORCEABILITY

The provisions of the Constitution shall be enforceable exclusively in the Quinault Tribal Court and in the Federal Courts of the United States where provided by federal law, and shall not be enforceable in any other Court, except where the Quinault Tribe brings suit in its own name in any other court. This section shall not be interpreted as a consent to suit or waiver of sovereign immunity by the Quinault Indian Nation.

#### ARTICLE IX - APPROVAL OF SECRETARY OF INTERIOR

The Secretary of the Interior shall have the power to review actions taken pursuant to the herein named powers and all other National powers, but only in those cases and only to the extent that the Secretary has been given such powers of review by express statutory command of the Congress of the United States.

ADOPTED MARCH 22, 1975.

# BYLAWS

## OF THE TRIBAL COUNCIL OF THE INDIANS OF THE QUINAULT INDIAN RESERVATION

---

*We are members of the Quinault Tribe of Indians of the Quinault Reservation, hereby make and adopt the following bylaws and rules:*

SECTION 1. *Members:* The membership of the Quinault Tribe shall be all persons whose names appear on the official roll of the Quinault Tribe. Any person shall be enrolled, who satisfies the tribal council that he meets one of the following requirements, provided that such person is not enrolled on another reservation:

- (a) *Blood Member:* a person of at least one-quarter Quinault (including Queets) blood.
- (b) *Affiliated Member:* a person of at least one-quarter Quileute, Hoh, Chehalis, Chinook or Cowlitz blood, who owns (or whose father or mother owns) a trust interest in an allotment on the Quinault Reservation, and who resides on the Quinault Reservation, or in Jefferson County within ten miles of the Reservation, or in Grays Harbor County.

The council may by two-thirds vote approve the adoption and enrollment as a blood or affiliated member, as the council may designate, any person not meeting the above eligibility requirements.



*Voting:* Adult members age 21 or more who (a) live on the Reservation, or (b) live away from the Reservation and who have attended at least three tribal council meetings within the three years preceding, shall be entitled to vote in the council. Affiliated members shall not vote on questions concerning property or rights owned exclusively by the blood members; otherwise, all adult members shall have equal voting rights.

*Tribal Council:* The tribal council shall consist of all voting members of the tribe who may be present at a duly called meeting. A quorum shall be 37 voting members.

SEC. 2. *Meetings:* There shall be one regular meeting of the council each year to be held on the last Saturday of March, unless said date shall fall on a holiday, in which case the meeting shall be held on the following day, at Taholah, to meet at 10 o'clock in the forenoon.

Special meetings may be held at any time and place by giving 10 days' notice by posting notices in conspicuous places where members of the tribe are located. Said notices to be signed by the president and secretary or by a majority of the business committee.

SEC. 3. *Officers:* The officers of this council shall be: President, vice-president, secretary, treasurer, and five councilmen, all such officers to constitute the business committee, and all such officers to be elected by the tribe at a general meeting.

The duties of the president shall be to preside at all meetings, call meetings when necessary, and to perform the duties usually devolving on a president.

The duties of the secretary shall be to keep the minutes of all meetings, to obtain and keep a correct record of all members of the tribe, to carefully keep the records and books of the council, and to perform such other duties as usually devolve upon a secretary.

The duties of the treasurer to receive and safely keep all money belonging to the council and to pay the same out only upon the order of the business committee.

It shall be the duty of the business committee to represent the Indians of the reservation in all matters pertaining to the tribe and in all tribal matters, arising between the sessions of the council, to follow the instructions of the council and render any aid they can to any individual member of the tribe needing assistance; to make a full report of their work; to each succeeding council, and in general to perform all of the duties of a business committee between meetings of the council.

*Vacancies:* Any vacancy in any of the offices shall be filled by the business committee. A majority of the business committee shall be authorized to do business.

SEC. 4. *Elections:* All officers shall be elected annually by a vote of the council and shall serve for 1 year or until their successors are elected. The officers

elected at this first council shall serve until the next annual election.

SEC. 5. In order to provide stationery, record books, postage, and necessary expenses, the dues of this council shall be fixed at        per year.

Regularly adopted by the First Council this 24th day of August 1922.

HARRY SHALE, *President*.

W. B. SAMS, *Secretary*.

*Attest:*

A true copy.

#### CERTIFICATION

On May 22, 1965, the Tribal Council of the Indians of the Quinault Indian Reservation declared the foregoing to incorporate all amendments approved by the council through May 22, 1965, and to be the official text of the Bylaws of the Tribal Council of the Indians of the Quinault Indian Reservation.

\_\_\_\_\_  
JAMES JACKSON, *President*

*Attest:*

\_\_\_\_\_  
FREDERICK SAUX, *Secretary*

[SEAL]

A true copy

SAC AND FOX TRIBE OF OKLAHOMA

1/7/76

PRINCIPAL CHIEF

Mary F. McCormick  
131 South Pennsylvania  
Shawnee, Oklahoma 74801

SECRETARY - TREASURER

Annette Miles  
131-South Pennsylvania  
Shawnee, Oklahoma 74801

SECOND CHIEF

Harry B. Walker

5 January 1976

Mr. Theodore George, Chairman  
National Advisory Council on Indian Education  
425 13th Street, N.W.  
Pennsylvania Building, Suite 326  
Washington, D.C. - 20004

Dear Mr. George:

In a Business Committee meeting of the Sac and Fox Tribe of Oklahoma, we reviewed your letter dated December 18, 1975 concerning the definition of "Indian." The following information is directed to the NACIE council members:

Requirements for enrollment in the Sac and Fox Tribe of Oklahoma:

ARTICLE II - Membership of Tribe

Section 1. The membership of the Sac and Fox Tribe of Indians of Oklahoma shall consist of the following:

- (a) All enrolled persons whose names appear on the official census roll of the Tribe as of January 1, 1937, and who were living on that date.
- (b) Each child born since the date of said roll and prior to the effective date of Amendment I (October 16, 1954) each of whose parents was a member of the Tribe.
- (c) Each child of Sac and Fox Indian blood born prior to the effective date of Amendment I (October 16, 1954) of a marriage between a member of the Tribe and any other person, if such child is admitted to membership by the Council.

COUNCILMEN

Carl Butler  
Ronnle Harris

GRIEVANCE COMMITTEE

Charles Eldredge  
Alvina Foster  
Carmen Thorpe



- (d) Each child who is of one-fourth or more Sac and Fox Indian blood born on or after October 16, 1954, each of whose parents is a member of the Tribe.
- (e) Persons born after date of October 16, 1954, who possess one-fourth or more Sac and Fox Indian blood, and at least one of whose parents is a member of the Sac and Fox Tribe of Oklahoma, shall be entitled to membership with the Sac and Fox Tribe of Oklahoma, provided an application is submitted in writing to the Sac and Fox Tribe of Oklahoma and provided that such person has not been enrolled with another tribe.
- (f) Persons making application for membership under Section I (c) above shall be entitled to file application two times only, and if rejected both times, they shall not be entitled to further consideration for membership with the Sac and Fox Tribe of Oklahoma.

Concerning Public Law 92-318, Section 453:

- (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or

We oppose this part of the definition because 1) states are now given the right to recognize any group as a tribe; 2) if tribes have not been recognized to date, could they possibly be tribes or just "branch groups" from recognized tribes; 3) if any group is to be recognized in the future by the states in which they reside, what are the criteria for such recognition.

- (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or

The wording in number (2) makes the definition very nebulous; the Secretary of the Interior has the power to recognize anyone as an Indian for any purpose.

- (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

The last part of the definition shows the importance of the NACIE definition.

The Business Committee of the Sac and Fox Tribe of Oklahoma submits the above information for consideration by NACIE. It is our opinion that the definition should use more definite terms -- the line must be drawn somewhere! We are very interested in this matter and look forward to the decisions reached at the NACIE meeting, January 15.

Sincerely,

*Annette Miles*

Annette Miles

AM/rn

#### DEFINITION OF AN INDIAN

This area is a very emotional one, and one where disagreements in assumptions have important consequences. Here are several sets of assumptions which are often brought up in this discussion:

1. Does being an Indian depend on ancestry (or "blood") only or does it also involve acceptance and participation in a set of social relations? I believe the majority view is that the acceptance of social responsibility within the tribe is important. Indian is an awareness of responsibilities outside the individual; this awareness involves respectful participation in an "Indian" society to some extent.

2. Assuming that the tribe is the basic unit of recognition for an "Indian", several questions must be asked:

a. Is the tribe itself recognized by any other group or government? Does the tribe have "federal recognition"? Is the tribe recognized by the state in which it lives, or does any other state recognize it now? Do any other Indian tribes accept or recognize the existence of this tribe? Have they ever? Do they now?

b. Unless the tribe has been recognized by others at some time in the past, and probably at the present, then any individual claiming to be a tribal member could not possibly receive services or recognition as "Indian". If the tribe itself is recognized, then the

next question is: does the tribe recognize the individual as being a tribal member? 1. If not, then the person claiming Indian identity would have difficulty since Indian ideas begin with the group rather than the individual. 2. If the tribe does recognize the individual, then this should be good evidence of being Indian. 3. A separate question from recognition of the tribe or individual as "Indian" involves access to federal funds which are appropriated by Congress of the United States for use by "Indian" groups.

a. The U.S. has since the 1930's, defined "Indian" only in terms of "blood": "any individual with one-quarter degree or more "Indian" ancestry is eligible for services and funds available for "Indian" people. This has led to many difficulties, mostly due to conflicts with tribal sovereignty. (1) some tribes set requirements for tribal membership which do not allow individuals who have parents, grandparents, etc. who are tribal members to join the tribe. In some areas, children are eligible for tribal membership only if their father is a tribal member. Or only the mother. This view could lead to situations where an individual would be recognized by the U.S. government as an "Indian" and yet not be eligible for membership in any tribe. Also some tribes require more than one quarter degree of tribal "blood" for membership. This would create similar problems.



(2) Some tribes set blood requirements below one-quarter degree even to the point of not having any requirements. In this circumstance an individual could be recognized by the tribe as a member, yet still be ineligible for federal services.

b. Vine Deloria, Jr. states his opinion that every time new tribes are recognized as being eligible for federal funds or as the population of eligible for federal funds increases that the range and amount of federal services available to all Indian groups and individuals increases in amount and complexity. (Akwe-sasne Notes, Early Winter 1976)

Nevertheless other "Indian spokespeople fear this will not continue and wish to limit eligibility for federal services and funds. Limitations could be drawn according to "(i) tribe must be recognized by either federal or state governments or both in order to be eligible to receive money as a group (ii) unless tribe is recognized as eligible then no individual member is eligible to receive services. (iii) even if tribe is recognized, it could not be eligible for money if it recognized members with an unspecified or less than one-quarter amount of "Indian" blood. (iv) even if tribe did not set lower "blood" limits, it would be eligible for funds, perhaps on a pro rate basis. Individual tribal members below one-quarter degree might not be eligible.

SUMMARY: 1. Different definitions of "Indian" begin from different assumptions: is the individual or is the tribal clan etc. the group, the basic unit of recognition?

2. Tribal sovereignty or freedom of "Indian" peoples to govern themselves is a central concern of any attempt to define terms of United States federal policy toward eligibility of groups or individuals for services or money. 3. Any attempt to set federal priorities or guidelines to some extent limits the scope of action for tribal groups in defining their membership.

RECEIVED  
1/13/76

JAMES ALLEN  
CHIEF  
(918) 542-6609

SENECA-CAYUGA TRIBE  
OF OKLAHOMA

1421½ E. STEVE OWENS BLVD.  
MIAMI, OKLA. 74354

SID WHITECROW  
BUSINESS MANAGER  
542-6609

January 9, 1975

Theodore George  
Chairman  
National Advisory Council  
on Indian Education  
Pennsylvania Bldg., Suite 326  
425 13th Street, NW  
Washington, D.C. 20004

Dear Mr. George:

In response to your letter dated Dec. 18, 1975, regarding the definition of "Indian", our Constitution and By-Laws of the Seneca-Cayuga Tribe of Oklahoma are as follows:

Article III - Membership of Tribe

The membership of the Seneca-Cayuga Tribe of Oklahoma shall consist of the following persons:

1. All persons of Indian blood whose names appear on the official census roll of the Tribe as of January 1, 1937.
2. All children born since the date of the said roll, both of whose parents are members of the Tribe.
3. Any child born of a marriage between a member of the Seneca-Cayuga Tribe and a member of any other Indian tribe who chooses to affiliate with the Seneca-Cayuga Tribe.
4. Any child born of a marriage between a member of the Seneca-Cayuga Tribe and any other person, if such child is admitted to membership by the Council of the Seneca-Cayuga Tribe.

Sincerely,

*Mayo S. Whitecrow*

Mayo S. Whitecrow  
Business Manager  
Seneca-Cayuga Tribe of Oklahoma

MW/rt

12/29/75



# SPOKANE TRIBE OF INDIANS

SPOKANE RESERVATION

December 24, 1975

Mr. Theodore George, Chairman  
National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C. 20004

Dear Mr. George:

Reference is made to your letter of December 18, 1975 in which you request the Tribe's definition of "Indian".

It is the opinion of the Spokane Business Council that an "Indian" is any individual who is on the approved Tribal roll of any federally recognized Indian Tribe, group or band. Proper Tribal officials should be charged with the responsibility of furnishing certification of Tribal enrollment.

Sincerely yours,

*Alfred E. McCoy*  
Alfred E. McCoy, Chairman  
SPOKANE TRIBAL BUSINESS COUNCIL

cc: BIA  
GIAC

SPOKANE AGENCY BOX 385 WELLPINIT, WASH. 99040

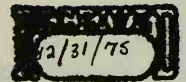




# White Mountain Apache Tribe

P.O. BOX 708  
WHITERIVER, ARIZONA 85941

December 24, 1975



Mr. Theodore George, Chairman  
NACIE  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C.

Dear Ted:

In your memorandum for defining the word "Indian", we are sending the subpart of our Tribal Constitution Article III on membership.

Really, this is about the nearest we can come, since there is no such word "Indian", spelled out defining its definition in any or all parts of our By-Laws.

We hope your committee will come out with a definition that will not hinder the Native Americans in our pluralistic society, but a viable definition, which will protect all of our rights as human beings and our relation to the United States Government.

Merry Christmas and a Happy New Year.

Sincerely,

Wesley Bonito  
Community Education Coordinator

Enclosure:

WB:fe

### ARTICLE III - MEMBERSHIP

Section 1. The membership of the White Mountain Apache Tribe shall consist of:

(a) All persons of White Mountain Apache Indian blood whose names appear on the official census roll at Fort Apache Indian Agency, Whiteriver, Arizona, on January 1, 1938.

(b) All persons born prior to the date of approval of this amended constitution from marriages that were contracted before August 26, 1938, between enrolled Apaches and persons other than Apaches.

(c) All persons of one-half degree or more Apache Indian blood born to members of the White Mountain Apache Tribe prior to the date of approval of this amended constitution.

(d) All children of one-half degree or more of White Mountain Apache Indian blood born after the date of approval of this amended constitution to any member of the White Mountain Apache Tribe; provided, that the parent, next of kin, recognized guardian, or person responsible for their care indicates a willingness to maintain tribal affiliation and to participate in tribal affairs by filing with the Tribal Council within one year after the birth of the child an application to have the child enrolled. The application shall be accompanied by the child's birth certificate or in the absence of a birth certificate by any other evidence as to the eligibility of the child for enrollment as the Tribal Council may require. If the certificate, other evidence, and application are not filed within the designated time the child shall not be enrolled.

Sec. 2. The Council shall have the power to pass ordinances which are consistent with and pursuant to this constitution governing future membership, loss of membership, loss membership, and the adoption of members by the White Mountain Apache Tribe, subject to review and approval of the Secretary of the Interior.

Sec. 3. The membership roll of the White Mountain Apache Tribe shall be kept current by adding thereto the names of persons who qualify for membership and by deleting therefrom the names of persons who have relinquished in writing their membership in the tribe. Upon receipt of death certificates of deceased members or other evidence of death satisfactory to the Tribal Council, the names of these deceased members shall be removed from the roll.

RECEIVED  
3/12/76



# White Mountain Apache Tribe

P.O. BOX 708  
WHITERIVER, ARIZONA 85941

## N O T I C E

### ---OF THE UPDATING OF THE WHITE MOUNTAIN APACHE TRIBE'S MEMBERSHIP ROLLS

### FOR THE PURPOSE OF PER CAPITA DISTRIBUTION OF THE WESTERN APACHE CLAIM

KNOW ALL PERSONS BY THESE PRESENCES that the deadline for filing an application for membership in the White Mountain Apache Tribe is MIDNIGHT, MAY 31, 1976, for the purpose of determining eligibility to share in the payment of the Western Apache Claim, Docket 22-D.

You may request application forms, or file a membership application by writing or mailing to:

Mrs. Mary C. Endfield  
Statistician  
WHITE MOUNTAIN APACHE TRIBE  
P.O. Box 708  
Whiteriver, Arizona 85941

In order for you to be considered for membership, your application MUST be on Tribal forms, and MUST be accompanied by a birth certificate or other evidence which establishes your membership eligibility. To share in the claim, you must have been born and living on or before December 3, 1975.

The effective period of this Notice is March 1, 1976 through May 31, 1976. Your membership application must be on file at the Tribal Office or post marked no later than MIDNIGHT, MAY 31, 1976. If you are outside of the continental United States or Alaska, the deadline for submitting a membership application in order to share in this payment is midnight, June 30, 1976.

Yours truly,

Ronnie Lupe  
Chairman,  
White Mountain Apache Tribe



Miami, Wyandot and Eastern Shawnee  
Tribal Office  
**THREE TRIBE OFFICE**

1423 East Steve Owens Blvd. P. O. Box 636  
Phone 918-542-7087  
Miami, Oklahoma 74354

January 6, 1976

National Advisory Council  
on Indian Education  
425 13 Street Northwest  
Washington, D. C. 20004

Dear Chairman:

In regard to your letter of December 18, 1975, in which you solicit our assistance in requesting that we submit written criteria, or our Tribe's definition of an "Indian".

I submit the following from our Constitution and By-laws of the Wyandot Tribe of Oklahoma:

Article II - Membership of Tribe

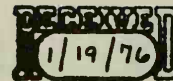
1. All persons of Indian blood whose names appear on the official roll of the Tribe as of January 1, 1937.
2. All children born since the date of the said roll, both of whose parents are members of the Tribe.
3. Any child born of a marriage between a member of the Wyandot Tribe, and a member of any other Indian Tribe who chooses to affiliate with the Wyandot Tribe.
4. Any child born of a marriage between a member of the Wyandot Tribe, and any other person, if said child is admitted to membership by the Council of the Wyandot Tribe.

Sincerely,

*Leonard N. Cotter*  
Leonard N. Cotter, Chief  
Wyandot Tribe of Oklahoma

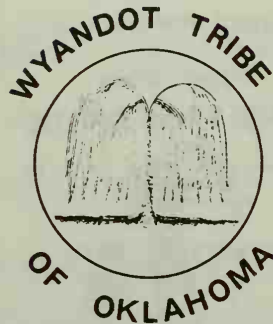
LNC/nj





Leonard N. Cotter  
Chief

Post Office Box 310  
Wyandotte, Okla. 74370  
Phone: 918-678-2224



Juanita McQuiston  
Secretary-Treasurer

Route 1, Box 168  
Miami, Okla. 74354  
Phone: 918-542-5996

January 9, 1976

National Advisory Council  
on Indian Education  
425 13 Street Northwest  
Washington, D. C. 20004

Dear Chairman:

The seal of the Wyandot Tribe of Oklahoma was inadvertently left off of my letter to you, dated January 6, 1976; therefore, the following information is a duplicate of the January 6 letter.

In regard to your letter of December 18, 1975, in which you solicit our assistance in requesting that we submit written criteria, or our Tribe's definition of an "Indian".

I submit the following from our Constitution and By-laws of the Wyandot Tribe of Oklahoma:

Article II - Membership of Tribe

1. All persons of Indian blood whose names appear on the official roll of the Tribe as of January 1, 1937.
2. All children born since the date of the said roll, both of whose parents are members of the Tribe.
3. Any child born of a marriage between a member of the Wyandot Tribe, and a member of any other Indian Tribe who chooses to affiliate with the Wyandot Tribe.

National Advisory Council  
on Indian Education  
Washington, D. C. 20004

January 9, 1976

4. Any child born of a marriage between a member of the Wyandot Tribe, and any other person, if said child is admitted to membership by the Council of the Wyandot Tribe.

Sincerely,

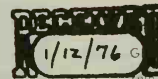
*Leonard N. Cotter*  
Leonard N. Cotter

Chief

Wyandot Tribe of Oklahoma

LNC/nj

## CONFEDERATED TRIBES AND BANDS



GENERAL COUNCIL  
TRIBAL COUNCIL

### *Yakima Indian Nation*

POST OFFICE BOX 632

TOPPENISH, WASHINGTON - 98948

January 6, 1976

National Advisory Council on Indian Education  
Pennsylvania Building, Suite 326  
425 13th Street, N.W.  
Washington, D.C. 20004

Dear Sir:

The Yakima Nation is in agreement with the definition of an Indian, except for this lack of wording preceeding the words tribe, band or other organized group of Indians.

There must be inserted before this word, tribe, these words, "Federally Recognized", before it can be fully accepted by the Yakima Indian Nation, as follows "Sec. 453. For the purpose of this title, the term "Indian" means any individual who (1) is a member of a Federally recognized tribe, band, or other organized group of Indians, etc."

Enclosed, you will find our enrollment law, which the tribe uses to determine who can be a Yakima enrollee. This will show what one tribe does in respect to recognition of its own. Although the one-fourth ( $\frac{1}{4}$ ) blood degree is required, none of the descendents of Yakimas with less degreee has been denied educational assistance.

Thank you for consideration.

Sincerely,

*Watson Totus*  
Watson Totus, Chairman  
Yakima Indian Nation

WT:rr

An Act

To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed, with the advice and consent of the Yakima Tribal Council, to prepare a roll showing the members of the Yakima Tribes living on the date of the approval of this Act, which roll shall be kept current and shall constitute the official membership roll of the Yakima Tribes for all purposes. No person who is enrolled with any other tribes of Indians or who has received an allotment of land on any other reservation shall be enrolled under the provisions of this Act. The following shall be placed on the roll:

(a) All living persons who received allotments on the Yakima Reservation, except by fraud,

(b) All living persons who are of the blood of the fourteen original Yakima Tribes, parties to the treaty of June 9, 1855 (12 Stat. 951), and who have received allotments on the public domain within the area ceded to the United States by the Yakima Tribes by the Treaty of 1855.

(c) All living persons who have maintained a domicile continuously from January 1, 1941, until the date of approval of this Act on the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 951), and who are (1) descendants of persons who received allotments on the Yakima Reservation, except by fraud, or (2) descendants of persons of the blood of the fourteen original Yakima Tribes who received allotments on the public domain within the area ceded by the said Treaty of 1855. (All living children born after January 1, 1941, but prior to the date of approval of this Act to a person entitled to enrollment under this subsection shall likewise be entitled to enrollment hereunder.)

(d) All children of one-fourth or more blood of the Yakima Tribes born after the date of approval of this Act to a parent who is an enrolled member and maintains a domicile on the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855, at the time of the birth of the child.

Sec. 2. Any person of one-fourth or more blood of the Yakima Tribes who may be excluded from enrollment under the provisions of Section 1 of this Act may apply for membership at any time and be enrolled upon the approval of the application by a two-thirds vote of the Yakima Tribal Council. Applications for enrollment under this section on behalf of minors and persons mentally incompetent may be filed by any enrolled member of the Yakima Tribe.

Sec. 3. Corrections in the roll prepared hereunder, by striking therefrom the name of any persons erroneously placed on the roll or by adding to the roll the name of any person erroneously omitted therefrom, may be made at any time by the Yakima Tribal Council.

Sec. 4. Every person whose name appears on the roll prepared hereunder who holds no voted right, title, or interest in or to any restricted or trust land on the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855, and who has

failed to maintain any tribal affiliations or a residence on the reservation or within the ceded area for a period of five consecutive years, shall no longer be considered a member of the Yakima Tribes, and his name shall be removed from the rolls. It shall be the duty of the Yakima Tribal Council to determine, subject to review by the Secretary of the Interior, loss of membership in each case.

Sec. 5. The Yakima Tribal Council may adopt and enforce ordinances, subject to review by the Secretary of the Interior, governing the expulsion of members for any cause deemed by the council to be sufficient.

Sec. 6. No person whose name shall hereafter be placed on the roll of the Yakima Tribes shall be entitled to any back annuities or per capita payments made to the members of the Tribes out of tribal funds which were authorized to be paid to the members of the Tribes before such person's name shall have been placed upon such roll.

Sec. 7. (a) A person who is not an enrolled member of the Yakima Tribes with one-fourth degree or more blood of such tribes shall not be entitled to receive by devise or inheritance any interest in trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 951), if, while the decedent's estate is pending before the Examiner of Inheritance, the Yakima Tribes pay to the Secretary of the Interior, on behalf of such person, the fair market value of such interest as determined by the Secretary of the Interior after appraisal. The interest for which payment is made shall be held by the Secretary in Trust for the Yakima Tribes.

(b) On request of the Yakima Tribes the Examiner of Inheritance shall keep an estate pending for not less than two years from the date of decedent's death.

(c) When a person who is prohibited by subsection (a) from acquiring any interest by devise or inheritance is a surviving spouse of the decedent, a life estate in one-half of the interest acquired by the Yakima Tribes shall, on the request of such spouse, be reserved for that spouse and the value of such life estate so reserved shall be reflected in the Secretary's appraisal under Subsection (a)."

Sec. 2 (of the 1970 Act) The provisions of Section 7 of the Act of August 9, 1946, as amended by this Act, shall apply to all estates pending before the Examiner of Inheritance on the date of this Act, and to all future estates, but shall not apply to any estate heretofore closed.





Statement of

The National Advisory Council on Indian Education

before

The United States House of Representatives

Sub-Committee on

Elementary, Secondary and Vocational Education

July 28, 1975

STATEMENT OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION  
BEFORE CONGRESSMAN PERKINS AND MEMBERS OF THE HOUSE SUB-COMMITTEE  
ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION.

Congressman Perkins, and members of the House Sub-Committee on  
Elementary, Secondary and Vocational Education.

The National Advisory Council on Indian Education was created by  
the Indian Education Act of 1972 (Title IV, Part D of Public Law  
92-318). Title IV was enacted to meet the special Educational  
needs of Indian students by providing financial assistance to local  
Educational agencies to develop and carry out elementary and  
secondary school programs specifically developed to meet the  
special educational needs.

Part B & C of the act requires that the Commissioner must provide  
grants to tribes, Tribal educational agencies and organizations to  
implement programs to improve educational opportunities for Indian  
children and adults.

The Members of the Council are:

Will Antell - Chippewa - Minnesota  
Ellen Allen - Kickapoo - Kansas  
Theodore George - Clallam - Washington  
Ann Coleman Glenn - Choctaw - Oklahoma  
Genevieve Hooper - Yakima - Washington  
Sue Lallmang - Seneca - Virginia  
Patricia McGee - Yavapai - Arizona  
Daniel Peaches - Navajo - Arizona  
David Risling - Hoopa - California  
Geraldine Simplicio - Zuni Pueblo - New Mexico  
Clarence Skye - Sioux - South Dakota  
Fred Smith - Seminole - Florida  
Boyce Timmons - Cherokee - Oklahoma  
Karma Torklep - Lumbee - North Carolina  
Joe Upicksoun - Eskimo - Alaska

The Council represents diverse areas within the United States and is  
an excellent cross section of American Indians. They are parents, tribal  
leaders, educators, and other professionally trained individuals  
which seems to be reflective of the intent of the Congress. The Council  
believes strongly in representing Indian citizens wherever they live,  
and the Council does not purport to represent their own tribe, state  
or region.

P.L. 92-318 Title IV is generally recognized as one of the most  
significant pieces of legislation dealing with Indian Education ever  
passed by a Congress of the United States. The thought may be expanded  
to all legislation dealing with education, because it provides for  
those being served, making the decisions for what they believe is  
necessary to make a difference. It penetrates deeper than every  
before by giving control at the local level to the people it intends  
to serve. It causes public school districts to develop a positive  
relationship to Indian communities.



This is a new era in the lives of American Indians. Historically, they have been shut out in planning programs, developing budgets, and sharing in the decision making process which is so common to Anglo communities. The benefits of legitimate involvement cannot be easily measured; however, if one witnesses the enthusiasm, knowledge, and determination of local Indian education Committees, one cannot help but believe significant phenomena are occurring. One of the greatest contributions a parent can make to his child is positive reinforcement. The encouragement, understanding and assistance of these parents involved, will in the Council's judgement, prove to be an invaluable contribution to their child's education success.

During 1975, for example, in Part A of Title IV, the Office of Education made grants to 845 school districts. The average size of Parent Committees is ten (10) and for those funded that represents approximately 8,450 Indian people involved. Another 358 applied, but were not funded and that increases the number even more. The Office of Education estimates there are nearly 2,970 eligible school districts and should the vast majority succeed in getting funded there will be literally thousands of Indian parents involved in crucial decisions affecting the education of their children.

Parts B and C do not require Parent Committees; however, nearly all of the 165 funded projects under B and 52 funded under C, for 1975 were granted to Indian Tribes or Indian controlled organizations. One can easily observe from this brief description the involvement of Indian people locally has multiplied many fold over the last two years.

All of Title IV has as its major objective, that the programs must meet the special needs of Indian people. Historically, millions of dollars have been appropriated by the federal government designed to educate Indian people. The latitude of state and local educational institutions was obviously too great, for they rarely considered the special educational needs of Indian children. All proposals funded under this act address that question squarely and it is reassuring to know those needs were determined locally by Parent Committees.

A significant number of proposals under Part B reflect great interest on the part of Indian communities to develop programs centered around Indian history and culture.\* The strengthening of, or rebirth of one's heritage has become a priority in all phases of Title IV. School districts who receive funds under Part A are developing curriculum materials reflective of the cultural characteristics of local Indian tribes. This cooperative venture between schools and Indian communities is meeting with great enthusiasm. This process has begun to create more respect and knowledge on the part of non-Indians and creates a positive self image on the part of Indian people.

\* There were requests for 61 million for Part B and 39 million for Part C.



P.L. 92-318 allows for the first time in the history of federal government Indian relationships, services to go to non-reservation Indians. Indian people wherever they reside are now eligible to participate in programs designed to meet their needs. For example, in Minnesota 3,500 Indian students were eligible to receive services under the Johnson-O'Malley Act; however, there are nearly 12,000 Indian students in the public schools in Minnesota of which 10,314 are now being served under Title IV, Part A. While data is sketchy from other states in this instance, evidence suggest identical circumstances do prevail. In some states, particularly in the eastern part of the country, states do not receive Johnson-O'Malley funds.

There is a great deal of debate in regard to duplication of funds between these two programs along with ESEA Title I programs. While no accurate information is available, preliminary inquiries indicate this is not the case. A study by the Office of Education and the Bureau of Indian Affairs has been completed. The study indicates there is no duplication of funds

The National Advisory Council on Indian Education has held field meetings in twelve states and all testimony received has been extremely positive in terms of what Title IV means to Indian communities. Local Indian communities are certainly not without problems; however, the legislation has the potential to make significant impacts on the education of Indian people.

The problem most often mentioned is the school districts refusing to accept the notion that Parent Committees have authority and control over these programs. Although the majority of school districts have accepted this proposition, there are those who still refuse to accept it, claiming federal intervention in local school districts jurisdiction. However, Indian Parent Committees are gaining more confidence and sophistication in dealing with this issue causing school districts to offer less resistance.

There is need to press this point more effectively from the United States Commissioner of Education. Chief state school offices generally know very little about Title IV, because they have little or no involvement in Title IV operations. However, the Council feels that leadership in the Office of Education could be helpful with persuasive dialogues with chief state school offices who obviously play an important role with local school officials.

The National Advisory Council is disappointed in that funding for fiscal year '75's the same as in fiscal year '74. As indicated in an earlier statement, there are a potential 2,970 school districts eligible for Part A funds. However, only 845 were actually funded. Should the rate of school districts receiving funds increase as it did in the past, it is estimated the per capita payment for each Indian student will drop significantly. Should inflation and school costs continue to rise, one can only guess what impact these resources will have.

The Council was extremely disappointed that the administration never requested funds for fiscal year '75 for Part A. The Office of Education has always argued that they are spending vast amounts of money for Indian Education and that Part A only duplicates what other programs do. While those figures are generally impressive, they do not tell the correct story. For example, in fiscal year 1974, the Office of Education reported 117,500 Indian children received \$42,288,398 under ESEA Title I. Every Title I administrator at the state or local educational institutional level will tell you that Title I funds do not serve Indian children, it serves children whose parents are in low income categories and are deficient in the basic skills. Furthermore, \$17,457,233 of that figure was transferred to the Bureau of Indian Affairs who serve only approximately 30% of Indian school age children. Title I clearly does not, whether in public schools or in BIA schools, direct its efforts toward the special needs of Indian children.

Another instance where the Office of Education reports substantial expenditures for Indian education comes from P.L. 874. This is purely an entitlement program for local school districts. The intent of P.L. 974 is to relieve the financial pressure of local school districts who have substantial amounts of non-taxable lands. Indians have never benefited from this program as it clearly is not intended to provide resources to meet special needs of Indian children. For the same fiscal year, P.L. 874 and P.L. 815 were reported to produce \$30,839,000 and \$11,200,000 respectively to Indian Education.

The Office of Education alleges they expended in fiscal year 1974, \$140,432,423 for Indian Education of which \$84,377,398 alone came from the three programs mentioned. If one would examine carefully where the Office of Education claims to have expended resources for Indian education in all other categories, the figure would more than likely shrink even further.

These disagreeing positions on Indian Education policy implementation and actual funding allocation become more polarized when the following points are also taken into consideration:

According to the latest available figures from the Office of Education, there are approximately 339,000 Indian students in public schools. In addition, there are approximately 55,000 Indian children served by the BIA federal School System. Thus five out of every six Indian students can be found in a public school. On Federal Indian reservations, three out of every four Indian students are in a public school. Thus the predominant responsibility for effective Indian education programs lies in the public school sector.

The policy of the Federal government, starting in the 1920's has been to transfer the responsibility for Indian education from BIA or Federal schools to public school districts. The two-fold rationale for this policy has been that education is the responsibility of the states and that Indian children wherever possible should be educated in an "integrated" setting. In fact, a careful review of the historical evidence indicated that a dominant reason for this transfer policy has been a desire to cut-back and terminate direct Federal services for Indians and to force assimilation at whatever cost. One other important factor has been the failure of the Federal government to provide effective alternatives to public school education in the Federal school system including any attempt to develop quality or superior educational programs.

It is beyond the scope of this report to examine in any depth this two-fold policy rationale, but it is clearly open to serious challenge. The historical fact remains that whereas 80% of enrolled Indian students were in Federal schools in the early 1920's, this situation has been completely reversed in the last fifty years. To accomplish this reversal has required three predominant Federal practices.

First, it has been necessary to provide substantial Federal subsidies to entice public school districts to enroll Indian students. In the course of the extensive Hearings held by the Senate Subcommittee on Indian Education, these Federal subsidies were often referred to by Indian witnesses as "bribe money" or "a price on the head of Indian children". The clear implication is that many of the school districts are primarily interested in the money and have relatively little interest in the unique and special education needs of the children. This leads to the second predominant Federal practice.

This failure to provide for any accountability in these Federal subsidy programs, has led to a third aspect of Federal practice. There has been a general unwillingness to recognize the fact that many of these public school districts, where Indian children have been pushed or gerrymandered into, have failed to provide anything even approaching an effective educational program for them. Again, there is ample documentation to this fact, from a number of recent thorough studies. A number of school districts can be found where there has been a conscious effort to exclude or neglect Indian students, and where the rankest kinds of discriminatory attitudes and practices prevail.

The Subcommittee on Indian Education found a number of school districts where, although there has been substantial Indian enrollment over a period of several decades, no Indian student had ever graduated, and in some instances where school administrators are even proud of the fact. The State of Oklahoma has more school districts receiving Federal Johnson-O'Malley funds than any other state. Within the last year an audit conducted by the Interior Department found that more than one-third of the money had not been used by the districts for the



benefit of their Indian students at all. Another compelling example is the Gallup-McKinley county school system in New Mexico, which has a larger Indian enrollment and receives more Federal funds as a result of that Indian enrollment than any other school district in the country. A comprehensive record of their purposeful misallocation of resources and malfeasance in regard to their Indian students is now part of a recent trial record in the Federal District Court serving New Mexico.

One of the important reasons for the misallocation of funds within districts and general neglect of Indian students is the fact that Indian students can largely be found in the poorest, most marginal, most backward, most poorly staffed and financed school districts in the United States. Recent Office of Education data reveals that 35% of all public school Indian students are in school districts where per pupil expenditure is below \$425, or less than 50% of the national average. Seventy-five percent of all public schools Indian students are in districts that expend less than \$624 per pupil. It is highly questionable whether any child can receive an effective education under these financial constraints, let alone a highly disadvantaged child from a dramatically unique cultural and language background.

A serious question could be raised given the financial status of many of these school districts whether or not they should be in existence at all. A substantial number of these school districts, where the largest concentration of Indian students can be found, certainly could not continue to exist without the Federal subsidies. They exist as a result of our longstanding national policy that Indian children should be educated in public schools regardless of the consequences. This probably accounts for part of the Federal practice of benign neglect, or non-recognition of school district failure. The implicit rationalization is who could possibly be successful under these circumstances?

In summary of these latter points, we now have substantial national data which indicates that public school education for a variety of reasons both conscious and unconscious, has grossly failed Indian children and the Federal government is a party to this failure through its past policies and Federal subsidies which continue to underwrite a national tragedy.

In view of the above information, the Council strongly recommends to Congress that they consider funding Title IV of the Indian Education Act at its full authorization as soon as possible, but no later than fiscal year 1977.\* The Council, in responding to the Indian community, Tribes and National Indian organizations, urgently requests Congress to fund Title IV, Parts A, B and C of the Indian Education Act at no less than 50% of its authorization.\*\*

\* Full funding - No. of Indian children enrolled in Public Schools times 2,000 (Based on "Follow-Thru programs" administered by USOE). minus basic support plus 10% set aside for Indian controlled schools. For FY 1976, this would amount to \$360,000,000.

\*\* See attached resolutions.



NACIE STATEMENT  
PAGE 7

Total P.L. 92-318 budget request for fiscal year 1976 is as follows:

Part A	50% authorization	\$180,000,000
Part B	50% authorization	17,500,000
Part C	50% authorization	4,000,000
Part D	NACIE - \$700,000	2,700,000
	OIE - \$2,000,000	
** Part E	(1974 Amendments)	4,000,000
	TOTAL	<u>\$208,200,000</u>

In regard to the many constraints and problems faced by the Council, we would like to report to you that our past relationship with the Department of Health, Education and Welfare has been something less than cordial and it remains a mystery to us why it turns a deaf ear to our concerns and recommendations. The National Policy of Self-Determination seems to have had little, if any impact on the Office of Education. While it is pleasant to report on the impact Title IV has generated in behalf of Indian Education, it is not a pleasant task to discuss our relationships with the Executive branch of the Federal government, namely the Office of Education. We would like to touch on a few of the most crucial problems.

The Executive branch of the Federal government under the past United States President has never accepted this piece of legislation. As a matter of fact, they were under court order to appoint this Council, release and obligate funds before June 30, 1973. This happened in May, 1973, and from that beginning, our Council has engaged in an uphill struggle which to us at times seems insurmountable. Every member of the Council accepted their appointment in good faith, with the belief we could contribute meaningfully in behalf of Indian education. We remain steadfast in our faith because we witness exciting developments in Indian communities, but maintain we could accomplish much more if the United States Office of Education would utilize our advice in a legitimate manner.

One of the charges of the Council is to assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made. The Council made recommendations for changes in the rules and regulations in June, 1974, before the deadline given by the Office of Education. We were later informed that the rules and regulations were already being printed and our recommendations were too late to be considered.

\*\* Special Indian fellowship program \$2,000,000 and special educational programs for teachers of Indian children 2,000,000.

In September, 1974, the Rules and Regulations Committee on behalf of the Council again made recommendations for changes in the rules and regulations. The Office of Education's response was that again we were too late for these changes to be considered.

Although Title IV gave legislative authority to the Council to perform several functions independent of the Office of Education, the current control of the Council's budget by this Office severely hobbles the Council's efforts to fulfill its statutory responsibilities to -

- (1) "evaluate programs and projects carried out under any program of the Department of Health, Education and Welfare in which Indian children and adults can participate or from which they can benefit, and disseminate the results of such evaluations",
- (2) "provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations to assist them in improving the education of Indian children",
- (3) and the right to "contract with any public or private non-profit agency, institution or organization for assistance in carrying out such functions".

The Council's obvious message to the Congress in all this is that as long as the bureaucracy is not held rigidly accountable for their continued blatant distortion of Congressional legislative intent, little will change in their habits or attitude toward this Council. And as importantly, it is all well and good for the Congress and the Executive Office to be out spoken proponents of Indian Self-Determination, but the bureaucracy's actions belie these words and the unofficial policy of "paternalism" continues to be perpetuated. We ask, When will it stop?

Hopefully, the Congress will examine this policy and restore our autonomy or we will not be able to perform our responsibilities. This clearly again seems to be in contradiction to the intent of the Congress who wanted Indians to have some control over programs and resources and decision affecting the educational lives of their children.

Since the initial funding of the Indian Education Act, an evolving practice has arisen within the Office of Education which dilutes the appropriated budget sums of Title IV. It is an internal cabal whereby Indian related programs are being shifted to Title IV which in turn become a form of supplemental funding to these other programs to the detriment of the intended beneficiaries of Title IV. This, of course, violates the very heart of the reason Congress goes to such pains to carefully identify line items in agency budgets; to restrict the latitude and practices of the bureaucracy's unauthorized manipulation of their budgets.

In the case of Title IV funds, various programs for vocational, adult and other forms of training that would ordinarily qualify for other Office of Education program funds are being shunted over into Title IV programs. The Council is drawing special attention to this practice not so much in that the Council in any way begrudges the funding of other than Title IV programs, but for the reason that has been made so emphatically in other parts of this report: there is already a critical shortage of Indian Education funds available and this practice further compounds the problem.

In addition to the above, most of the existing programs within the Office of Education are not serving Indian institutions or Indian communities. Most Indian communities and Indian institutions are not even aware that such programs exist. Others who attempt to seek such funds, find that they are usually turned down for any number of reasons. The main reasons are generally connected with rules, regulations and criteria used for selection which are all oriented toward the non-Indian programs. Since Indians cannot get much funds under this system, Congress should insist that Indian people be employed in every program within the USOE and that a part of every program have a special set aside for Indian people.

A case in point, is the vocational education programs within USOE, which does little or nothing to train Indian people in vocations that would allow them to be employed in the community in which they reside. The regulations on the act must be changed to allow Indian people to plan and decide for themselves the kind of programs needed for their people. It may also require that special kinds of vocational programs be set up on or near Indian communities.

The Council is especially concerned about bilingual/bicultural education. Indian languages are an extension of Indian culture. Denial of Indian languages thus is a denial of Indian culture. Bilingual/bicultural programs need to be redesigned to allow for Indian language development by Indians not by non-Indian linguists.

Because only a small percentage of Indian people have graduated from college, emphasis should be placed upon programs which are designed to encourage Indians to seek higher education. Indian colleges, located on or near Indian communities, should be given a preference in funding or special funds set aside for this purpose.

Any number of studies on Indian education have been authorized by Congress, the most recent by PL 93-380. The Council has gone on record requesting that primary contracts go to Indian organizations, that the instrument used be drawn up by Indians, and that Indians be involved in drawing conclusions and making recommendations.

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Any number of studies on Indian education have been authorized by Congress, the most recent by PL 93-380. The Council has gone on record requesting that primary contracts go to Indian organizations, that the instrument used be drawn up by Indians, and that Indians be involved in drawing conclusions and making recommendations.



Therefore, we make an earnest appeal to the Congress to -

- (1) Restore the Council's originally intended and independent status which has been usurped by the bureaucracy,
- (2) authorize its separate and direct funding,
- (3) understand, protect, and improve the uniqueness and quality of the Indian Education Act,
- (4) hold the Office of Education stringently accountable for the proper implementation of the Congress' Indian Education policies,
- (5) insist that Indian people be employed by every program within the USOE and that a part of every program have a special set aside for Indian programs,
- (6) insist that USOE change the regulations for disbursing vocational education funds so that special vocational programs on or near Indian communities can be specially designed to meet the needs of Indian people,
- (7) insist the USOE bilingual/bicultural programs be redesigned to allow for Indian language development by Indians, not by non-Indian linguists,
- (8) insist that USOE give preference in funding to Indian controlled higher education institutions or provide special set aside funds for this purpose, and
- (9) insist that studies or surveys made concerning Indian programs, be contracted to Indian firms, organizations, or institutions, to insure that the design, evaluation, conclusion and recommendations are by Indian people who are intimately aware of the problems of Indian people.

Mr. Chairman, these are only a few examples of the difficulties our Council has encountered with the Office of Education.

The Council believes the legislation passed in 1972 and amended in 1974, will have greater impact on Indian Education than any other law passed by the Congress. The potential is definitely there and it remains to be seen if the U.S. Office of Education under new leadership can fulfill its role by properly utilizing this Council's advisory capacity.

Mr. Chairman, this concludes our statement; on behalf of the National Advisory Council on Indian Education, sincere and special thanks for this opportunity to present this vital concerns.



